

D-0378

SUPREME COURT OF TEXAS CASES

004

EDGEWOOD INDEPENDENT SCHOOL DISTRICT V. KIRBY

1990-91



$$LFA = TR \times DPV$$

where:

"LFA" is the district's local share;

"TR" is a tax rate which for the 1990-1991 school year shall be computed by the commission of education before the 1990-1991 (each) school year as the rate that will raise a total local share, prior to adjustments, equal to 41 (33-3) percent of the current year Foundation School Program estimated costs under Subchapters C and D of this chapter other than the adjustments made under Sections 16.102(d) and 16.103(d) of this code, and which shall be \$0.70 per hundred dollars of valuation for each year thereafter, or a rate as adopted by the foundation school fund budget committee for the 1993-1994 and 1994-1995 school years under authority granted in Section 16.256(d) of this code; and

"DPV" is the taxable value of property in the district for the prior tax year determined under Section 11.86 of this code.

(b) The commissioner of education shall adjust the values reported in the official report of the State Property Tax Board to reflect reductions in taxable value of property resulting from natural or economic disaster after January 1 in the year in which the valuations are determined. The decision of the commissioner of education shall be final. An adjustment does not affect the local fund assignment of any other district.

(c) Appeals of district values shall be held pursuant to Subsection (e) of Section 11.86 of this code.

(d) A district shall raise its total local share of its

1 program cost in order to qualify for aid from the foundation school
2 fund.

3 (e) The commissioner of education shall hear appeals from
4 local school districts which have experienced a rapid decline in
5 tax base used in calculating the local fund assignment, exceeding
6 eight percent of prior year, that is beyond the control of the
7 local board of trustees. The commissioner of education may adjust
8 the local school district's taxable values for local fund
9 assignment purposes for such losses in value exceeding eight
10 percent and thereby adjust the local fund assignment to reflect the
11 local current year taxable value. The decision of the commissioner
12 of education shall be final. An adjustment does not affect the
13 local fund assignment of any other district.

14 SECTION 1.10. Section 16.256, Education Code, is amended by
15 adding Subsections (d), (e), (f), and (g) to read as follows:

16 (d) The foundation school fund budget committee shall adopt
17 rules for the calculation for each year of a biennium of the
18 qualified funding elements necessary to achieve the state funding
19 policy under Section 16.001 of this code not later than the
20 1994-1995 school year and for each year thereafter. In the
21 calculation of these funding elements, the committee shall consider
22 the report of the Legislative Education Board prescribed under
23 Section 16.008 of this code.

24 (e) The funding elements shall include:

25 (1) a basic allotment for the purposes of Section
26 16.101 of this code that represents the cost per student of a

1 regular education program that meets the basic criteria for an
2 accredited program including all mandates of law and regulation;

3 (2) the formula or other provision for the cost of
4 education index designed to reflect the geographic variation in
5 known resource costs and costs of education beyond the control of
6 school districts for the purposes of Sections 16.102 and 16.103 of
7 this code;

8 (3) appropriate program cost differentials and other
9 funding elements for the programs authorized under Subchapter D of
10 this chapter, with the program funding level expressed as dollar
11 amounts and as weights applied to the adjusted basic allotment for
12 the appropriate year;

13 (4) the maximum guaranteed level of qualified state
14 and local funds per student for the purposes of Subchapter H of
15 this chapter that represents the costs as determined and limited
16 under Subchapter F of this chapter for exemplary programs including
17 the cost of facilities and equipment until such time as a funding
18 formula for capital outlay and debt service is adopted under
19 Subchapter I of this chapter;

20 (5) the total tax rates for the local funding
21 requirements of Section 16.252 of this code and Subchapter H of
22 this chapter, including tax rates for capital outlay and debt
23 service until such time as a funding formula for capital outlay and
24 debt service is adopted under Subchapter I of this chapter; and

25 (6) the formula elements for the funding formulas for
26 capital outlay and debt service under the provision of Subchapter I

1 of this chapter.

2 (f) Beginning in 1992, not later than November 1 preceding
3 each regular session of the legislature, the foundation school fund
4 budget committee by rule shall adopt and report the equalized
5 funding elements calculated under this section to the commissioner
6 of education and the legislature. Before the committee adopts the
7 elements, the committee or the committee's designees shall hold a
8 public hearing on the recommendations of the Legislative Education
9 Board.

10 (g) Notwithstanding other provisions of this section, the
11 funding elements adopted by the foundation school fund budget
12 committee for the 1993-1994 school year and the 1994-1995 school
13 year shall provide for appropriate transition from the program in
14 effect for the 1992-1993 school year.

15 SECTION 1.11. Subchapter H, Chapter 16, Education Code, is
16 amended by amending Sections 16.302 and 16.303 and adding Section
17 16.304 to read as follows:

18 Sec. 16.302. ALLOTMENT. (a) Each district is guaranteed a
19 specified amount per weighted student in state and local funds for
20 each cent of tax effort over that required for the local fund
21 assignment up to the maximum level specified in this subchapter.
22 The amount of state support, subject only to the maximum amount
23 under Section 16.303 of this code, is determined by the formula:

24
$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

25 where:

26 "GYA" is the guaranteed yield amount of state funds to be

1 allocated to the district;

2 "GL" is the dollar amount guaranteed level of state and local
3 funds per weighted student per cent of tax effort, which is \$17.90
4 for the 1990-1991 school year and \$26.05 for each school year
5 thereafter, [418.25] or a greater amount for any year provided by
6 appropriation, or an amount adopted by the foundation school fund
7 budget committee under Section 16.256(d) of this code for the
8 1993-1994 or 1994-1995 school year or thereafter;

9 "WADA" is the number of weighted students in average daily
10 attendance, which is calculated by dividing the sum of the
11 district's allotments under Subchapters C and D of this chapter,
12 less any allotments to the district for transportation or for
13 career ladder supplements and 50 percent of the adjustment
14 [adjustments] under Section [Sections] 16.102 [and-16.103] of this
15 code, by the basic allotment for the applicable year;

16 "DTR" is the district enrichment tax rate of the district,
17 which is determined by subtracting the local fund assignment of the
18 district from the amount of taxes collected by the district for the
19 applicable school year and dividing the result by the quotient of
20 the district's taxable value of property (DPV) under Section 16.252
21 of this code divided by 100; and

22 "LR" is the local revenue, which is determined by multiplying
23 "DTR" by the quotient of the district's taxable value of property
24 (DPV) under Section 16.252 of this code divided by 100.

25 (b) Beginning with the 1992-1993 school year, if the cost of
26 education index and program cost differentials developed jointly by

1 the Legislative Education Board and the Legislative Budget Board
2 under Section 16.203 of this code are not adopted by the foundation
3 school fund budget committee or the commissioner of education, the
4 amount guaranteed under this section is an amount per student
5 rather than per weighted student and a district's average daily
6 attendance ("ADA") under Section 16.006 of this code is substituted
7 for "WADA" in the formula under Subsection (a) of this section.

8 (c) Beginning with the 1991-1992 school year, the
9 Legislative Education Board under Section 16.008 of this code and
10 the foundation school fund budget committee under Section 16.256 of
11 this code may calculate rates for "GL" and for the limitation on
12 "DTR" under Section 16.303 of this code using a percentile of
13 property wealth per weighted student that is not less than the 90th
14 percentile. The rates calculated will replace the rates stated in
15 Subsection (a) of this section and Section 16.303 of this code.

16 Sec. 16.303. LIMITATION ON ENRICHMENT TAX RATE. (a) The
17 district enrichment tax rate ("DTR") under Section 16.302 of this
18 code may not exceed \$0.37 in the 1990-1991 school year, \$0.48 in
19 each year thereafter, or an amount for 1993-1994 and 1994-1995
20 school years or thereafter as adopted by the foundation school fund
21 budget committee under Section 16.256(d) of this code (60-26-or-a
22 greater--amount--for--any--of--those--school--years---provided---by
23 appropriation].

24 (b) For districts that have a district enrichment tax rate
25 in 1990-1991 of less than the maximum "DTR" as specified in
26 Subsection (a) of this section, for years subsequent to 1990-1991,

1 the annual maximum "DTR" for the school years 1991-1992 through
2 1993-1994 shall be limited to the 1990-1991 district enrichment tax
3 rate plus:

4 (1) an amount equal to 25 percent of the difference
5 between the maximum rate and the 1990-1991 district rate for the
6 1991-1992 school year;

7 (2) an amount equal to 50 percent of the difference
8 between the maximum rate and the 1990-1991 district rate for the
9 1992-1993 school year; and

10 (3) an amount equal to 75 percent of the difference
11 between the maximum rate and the 1990-1991 district rate for the
12 1993-1994 school year [the-1989-1990-school-year--a-district-may
13 not-receive-less-per-student-in-guaranteed-yield-state--funds--than
14 the---amount---of---state---funds---received---under---the---enrichment
15 equalization-allocation-in-the-1988-1989-school-year].

16 Sec. 16.304. COMPUTATION OF AID FOR DISTRICT ON MILITARY
17 RESERVATION OR AT STATE SCHOOL. State assistance under this
18 subchapter for a school district located on a federal military
19 installation or at Moody State School is computed using the average
20 tax rate and property value per student of school districts in the
21 county, as determined by the commissioner of education.

22 SECTION 1.12. Section 16.155, Education Code, is amended by
23 amending Subsections (a) and (e) and adding Subsection (g) to read
24 as follows:

25 (a) For each full-time equivalent student in average daily
26 attendance in an approved vocational education program in grades

1 nine through 12 or in vocational education for the handicapped
2 programs in grades seven through 12, a district is entitled to an
3 annual allotment [for the 1989-1990--and--1990-1991--school--years]
4 equal to the adjusted basic allotment multiplied by a weight of
5 1.37 [1.45].

6 (e) Funds allocated under this section, other than an
7 indirect cost allotment established under State Board of Education
8 rule, must be used in providing vocational education programs in
9 grades nine through 12 or vocational education for the handicapped
10 programs in grades seven through 12 under the provisions of
11 Sections 21.111, 21.1111, and 21.112 of this code.

12 (g) The commissioner shall conduct a cost-benefit comparison
13 between vocational education programs and mathematics and science
14 programs.

15 SECTION 1.13. Subchapter F, Chapter 16, Education Code, is
16 amended to read as follows:

17 SUBCHAPTER F. [PROGRAM] ACCOUNTABLE COSTS OF EDUCATION

18 Sec. 16.201. PURPOSE. The accountable costs of education
19 studies are designed to support the development of the equalized
20 funding elements necessary to provide an efficient state and local
21 public school finance system which meets the state policy
22 established in Section 16.001 of this code and provides the
23 research basis for the equalized funding elements under the
24 provisions of Section 16.008 of this code. In determining
25 accountable costs, the boards may not include costs of cocurricular
26 and extracurricular programs and shall consider the results of the

1 efficiency in administration report under Section 16.205 of this
2 code [REPORT:--The-State-Board-of-Education-shall-report--what--it
3 determines-to-be-

4 [(1) --the--minimum--basic-accountable-costs-per-student
5 to-school-districts-of-providing-education-programs,-personnel,-and
6 other--operating--costs--that--meet--the--accreditation--standards
7 prescribed-by-law-and-rule,-for-each-year-of-the-next-biennium;

8 [(2) --the--estimated---costs--per--student--to--school
9 districts-of-providing-exemplary-education-programs,-personnel,-and
10 other-operating-costs-that-exceed-basic-accreditation-levels;

11 [(3) --the-costs-of-implementing-the-long-range-plan-for
12 public-school-education-authorized--by--Section--11.26(b)--of--this
13 code;

14 [(4) --facility--and--debt--service--costs--necessary-to
15 provide-for--both--current--and--projected--facilities--for--public
16 schools--according--to--the-standards-adopted-under-Subchapter-3-of
17 this-chapter;

18 [(5) --the-basic-accountable-costs-per-student-for--each
19 programmatic--area--that--is--recognized--by--the-Foundation-School
20 Program;-and

21 [(6) --the-basic-accountable-costs--of--transportation].

22 Sec. 16.202. STUDIES. (a) On a biennial basis, the
23 Legislative Education Board and the Legislative Budget Board, with
24 the assistance of the Educational Economic Policy Center and the
25 Central Education Agency, shall complete each of the following
26 studies and develop recommended amounts where appropriate for each

1 year of the next biennium:

2 (1) a study of the fiscal neutrality of the system to
3 determine the status of the state and local finance system with
4 regard to the policies established under the provisions of Section
5 16.001 of this code, including recommendations for adjustments
6 necessary to maintain fiscal neutrality;

7 (2) the accountable costs per student to school
8 districts of providing educational programs, personnel, and other
9 operating costs that meet accreditation criteria and the provisions
10 of law and regulation;

11 (3) a cost of education index designed to reflect the
12 geographic variation in known resource costs and costs of education
13 due to factors beyond the control of school districts;

14 (4) program cost differentials designed by program to
15 provide support for the added expense of high-cost courses or
16 programs for students participating in such courses or programs,
17 with the program funding level expressed as dollar amounts and as
18 weights applied to the adjusted basic allotment for the appropriate
19 year;

20 (5) transportation and career ladder allotments;

21 (6) the accountable costs per student to districts
22 rated as exemplary under the provisions of Subchapter T of Chapter
23 21 of this code for the provision of personnel, programs, and other
24 operating expenses, with the limitation that for the 1993-1994 and
25 the 1994-1995 school years this level may not be less than 95
26 percent nor more than 100 percent of the 95th percentile of state

1 and local revenue per pupil;

2 (7) the levels of tax effort necessary for each tier
 3 of the Foundation School Program necessary to fulfill the
 4 requirements of Sections 16.001 and 16.008 of this code; and

5 (8) capital outlay and debt service requirements and
 6 formula elements for the requirements of Subchapter I of this
 7 chapter or other provisions of this chapter.

8 (b) In the determination of costs and revenues under this
 9 chapter, the boards shall consider those costs and revenues
 10 necessary for operation, maintenance, and administration and those
 11 costs necessary for adequate facilities and equipment and shall
 12 exclude all other costs [ADVISORY COMMITTEE--(a)--The State--Board
 13 of--Education--shall--appoint--an--advisory--committee--to--assist--the
 14 board--in--determining--the--minimum--basic--accountable--costs--The
 15 committee--must--be--composed--of--15--members--a--majority--of--whom--may
 16 not--be--employees--or--officials--of--a--local--school--district;

17 [(b)--in--making--appointments--to--the--committee--the--board
 18 shall--give--representation--to--different--geographic--areas--and
 19 different--sizes--of--schools--and--districts.

20 [(c)--Members--of--the--committee--serve--without--compensation--but
 21 are--entitled--to--reimbursement--for--actual--and--necessary--expenses
 22 incurred--in--performing--their--duties--Reimbursement--is--from--funds
 23 appropriated--to--the--Central--Education--Agency--and--available--for--that
 24 purpose].

25 Sec. 16.203. PROCEDURES. (a) In the determination of the
 26 statistical measures used for the calculation of fiscal neutrality,

1 the boards shall use only those measures recommended by an
2 impartial panel of persons expert in the use of statistics
3 appointed by the boards.

4 (b) The cost of education index shall be based on one or
5 more models that consider the effect of school district or other
6 characteristics on the cost of public education in the various
7 school districts of the state. The districts may be divided into a
8 variety of categories that may include region, size, area, density,
9 educational characteristics, and economic conditions. The index
10 shall adjust only for specific resource cost variations caused by
11 factors beyond the control of school districts, to include
12 personnel, variations from optimal district size, and other cost
13 factors. Factors that are addressed by other formula adjustments
14 in the Foundation School Program are not to be considered.
15 Variations should be based on the most efficient service delivery
16 systems. An impartial panel of persons expert in econometric
17 modeling, statistics, and related fields shall be consulted in the
18 development of the index, examination of cost factors, and
19 development of models. The commissioner of education shall collect
20 data necessary to the development of the models and index. The
21 boards shall develop a formula for applying the index to the basic
22 allotment in a manner that appropriately reflects the relative
23 significance of the costs adjusted by the index to the overall cost
24 of a minimum accredited regular education program represented by
25 the basic allotment.

26 (c) The cost of education index developed jointly by the

1 Legislative Education Board and the Legislative Budget Board shall
2 be submitted to the foundation school fund budget committee for
3 adoption. The cost of education index adopted by the committee
4 shall be effective beginning with the 1991-1992 school year.

5 (d) The program cost differentials developed jointly by the
6 Legislative Education Board and the Legislative Budget Board shall
7 be submitted to the foundation school fund budget committee for
8 adoption beginning with the 1992-1993 school year. If the
9 foundation school fund budget committee fails to adopt by April 1
10 the program cost differentials for the following school year, the
11 commissioner of education, after considering the recommendations
12 developed by those boards, shall adopt program cost differentials.

13 (e) The commissioner of education shall provide appropriate
14 assistance to the boards for the calculation of the various funding
15 elements. Subject to review by the Legislative Education Board,
16 the commissioner of education shall retain from the allotments
17 under Sections 16.102 and 16.103 of this code and Subchapter D of
18 this chapter amounts appropriate to finance necessary additional
19 costs for the studies required under this subchapter.

20 (f) The boards may appoint advisory committees to assist in
21 the development of the various funding elements and studies
22 required under this subchapter. Advisory committee members serve
23 without compensation but are entitled to reimbursement for actual
24 and necessary expenses incurred in the performance of their duties.
25 Reimbursement shall be from funds available under Subsection (e) of
26 this section or from other funds available to the boards.

1 (g) In the studies relating to program cost differentials
 2 the boards shall give special consideration to cost factors
 3 associated with class size, laboratory expenses, materials,
 4 equipment, teacher training, necessary salary supplementation, and
 5 special services related to individual courses or groups of courses
 6 [LEGISLATIVE--CONSIDERATION--in--adopting--the--amount--of--basic
 7 special--and--transportation--allotments--under--this--chapter--the
 8 legislature--shall--consider--the--recommendations--and--report--of--the
 9 State--Board--of--Education--as--to--the--minimum--basic--accountable--costs
 10 of--a--program--that--meets--accreditation--standards--The--board--shall
 11 file--the--report--with--the--governor--the--Legislative--Budget--Board,
 12 and--the--Legislative--Education--Board].

13 Sec. 16.204. NAVAL MILITARY FACILITY IMPACT. (a) The model
 14 on which a cost of education index is based must specifically
 15 consider the impact of a significant new naval military facility on
 16 each district in an impacted region.

17 (b) If the construction or operation of a significant new
 18 naval military facility begins during a school year, the
 19 Legislative Education Board and the Legislative Budget Board shall
 20 recommend the adjustment of the basic allotment during that school
 21 year to consider any impact of the facility on the cost of
 22 education index of the districts in the impacted region.

23 (c) In this section, "significant new naval military
 24 facility" and "impacted region" have the meanings assigned by
 25 Section 4, Article 1, National Defense Impacted Region Assistance
 26 Act of 1985 (Article 689a-4d, Vernon's Texas Civil Statutes).

1 Sec. 16.205. EFFICIENCY IN ADMINISTRATION REPORT. (a) The
2 commissioner of education shall conduct a study to determine the
3 most appropriate and efficient method for reporting and monitoring
4 the allocation of resources by school districts.

5 (b) The study shall identify the most effective means for
6 calculating, monitoring, and reporting the proportion of resources
7 that school districts allocate for their administrative costs and
8 shall include administrator-teacher ratios.

9 (c) The study shall include a description of average
10 efficient administrative expenditures by districts with
11 consideration of district size and demographics.

12 (d) Prior to the beginning of each regular session of the
13 legislature, the agency shall provide a report with recommendations
14 to the Legislative Education Board and the legislature.

15 (e) The study is an element of the study of accountable
16 costs of education under this subchapter.

17 SECTION 1.14. (a) In the development of the accountable
18 cost of education studies during the 1989-1990 and 1990-1991 school
19 years, the Legislative Education Board and Legislative Budget Board
20 shall give special consideration to the studies required for the
21 development of program cost differentials, the cost of education
22 index, and a comprehensive set of recommendations for the provision
23 of state assistance to school districts for school facilities and
24 debt service beginning in the 1991-1992 school year. These studies
25 shall be completed not later than January 1, 1991.

26 (b) In addition, specific studies of the impact of

1 year-round average daily attendance, appropriate mechanisms for the
2 funding of vocational education, and the cost of serving at-risk
3 students shall be included in the studies completed by the boards
4 prior to January 1, 1991.

5 SECTION 1.15. Section 13.353, Education Code, is amended by
6 adding Subsection (e) to read as follows:

7 (e) From funds appropriated for that purpose, the Central
8 Education Agency shall allocate an amount each year for the
9 identification, adaptation, development, and evaluation of
10 professional development programs and materials; training of
11 trainers; and technical assistance in the development of general
12 management and leadership development skills, including skills
13 necessary to implement Sections 21.7532 and 21.930 of this code.
14 The State Board of Education may designate special projects and
15 development activities to be carried out with such funds. The
16 manner in which such funds are utilized shall be reported annually
17 to the commissioner of education.

18 SECTION 1.16. Section 29.05, Education Code, is amended to
19 read as follows:

20 Sec 29.05. ALLOCATION OF COSTS. A formula for the
21 allocation of professional units and other operating expenses shall
22 be developed by the Central Education Agency and approved by the
23 State Board of Education. For the fiscal year ending August 31,
24 1991, the amount approved by the State Board of Education may not
25 exceed \$29 million. Not later than February 1, 1991, the Central
26 Education Agency and the Texas Department of Criminal Justice shall

1 propose to the 72nd Legislature a formula for funding the schools
2 authorized by Section 29.01 of this code, using the fund required
3 by Section 29.04 of this code.

4 SECTION 1.17. Chapter 1, Title 22, Revised Statutes, is
5 amended by adding Article 717t-1 to read as follows:

6 Art. 717t-1. PUBLIC SCHOOL FACILITIES DEVELOPMENT GRANTS.

7 (a) From funds appropriated for the purpose, in the 1991-1992
8 school year, the board shall make grants to school districts to
9 alleviate emergency needs for acquiring, constructing, renovating,
10 or improving capital assets and instructional facilities. A
11 portion of these funds may be used to alleviate the debt service
12 obligations of school districts incurring debt since September 1,
13 1984, and prior to the effective date of this article.

14 (b) The board by rule shall establish procedures and
15 qualifications for obtaining a grant under this article. Under the
16 rules, a priority shall be given to school districts with a
17 property-wealth per student ratio inadequate to meet the demands
18 for adequate funds for its education program and for its debt
19 service obligations. The board may consider, in adopting rules and
20 awarding grants, the conditions listed in Subsection (a), Section
21 20, Public School Facilities Funding Act (Article 717t, Vernon's
22 Texas Civil Statutes).

23 (c) Except to the extent directly related to the
24 acquisition, construction, renovation, or improvement of capital
25 assets and instructional facilities, a grant may not be used to pay
26 the general administrative expenses of any school district or to

1 pay any part of the salary or benefits of an official or employee
2 of any school district receiving a grant under this article.

3 (d) In this article:

4 (1) "Board" has the meaning assigned by Section 2,
5 Public School Facilities Funding Act (Article 717t, Vernon's Texas
6 Civil Statutes).

7 (2) "Capital assets" means permanent fixtures,
8 mechanical or electrical equipment, or other tangible property that
9 becomes a permanent improvement to an instructional facility or
10 furnishings, other than computers, for an instructional facility
11 that have a life of not less than 10 years.

12 (3) "Instructional facility" has the meaning assigned
13 by Section 2, Public School Facilities Funding Act (Article 717t,
14 Vernon's Texas Civil Statutes).

15 (e) This article expires August 31, 1992.

16 SECTION 1.18. Chapter 314, Government Code, is amended by
17 adding Section 314.004 to read as follows:

18 Sec. 314.004. EQUALIZED EDUCATION FUNDING IMPACT STATEMENT.

19 (a) The board shall prepare for each bill or resolution that
20 affects public education an equalized education funding impact
21 statement.

22 (b) The impact statement must evaluate the effect of the
23 bill or resolution on all state equalized funding requirements and
24 policies.

25 (c) The impact statement must be attached to the bill or
26 resolution immediately following the fiscal note attached under

1 Section 314.003.

2 SECTION 1.19. Section 322.008, Government Code, is amended
3 to read as follows:

4 Sec. 322.008. APPROPRIATIONS BILL. (a) The director, under
5 the direction of the board, shall prepare the general
6 appropriations bill for introduction at each regular legislative
7 session.

8 (b) Not later than the 1994-1995 school year, the general
9 appropriations bill shall include for purposes of information the
10 funding elements adopted by the foundation school fund budget
11 committee under Section 16.256(e), Education Code, excluding the
12 values for each school district calculated under Subdivision (2) of
13 that subsection. The funding elements under Section 16.256(e)(3),
14 Education Code, shall be reported in dollar amounts per pupil.

15 (c) Not later than the fifth day after a regular legislative
16 session convenes, the director shall transmit a copy of the budget
17 of estimated appropriations prepared by the director to the
18 governor and each member of the legislature.

19 (d) ~~(e)~~ Not later than the seventh day after a regular
20 legislative session convenes, the director shall transmit a copy of
21 the general appropriations bill to the governor and each member of
22 the legislature.

23 SECTION 1.20. (a) Notwithstanding any other provision of
24 this Act, a district's increase or decrease in state aid per
25 student due to changes made by this Act to the Education Code at
26 the time of its enactment shall be limited to the following levels

1 for the indicated school years:

2 (1) 25 percent of the difference between the state aid
3 per student to which the district is otherwise entitled under the
4 provisions of this Act for the 1991-1992 school year and the state
5 aid per student to which the district is entitled under the
6 provisions of this Act for the 1990-1991 school year;

7 (2) 50 percent of the difference between the state aid
8 per student to which the district is otherwise entitled under the
9 provisions of this Act for the 1992-1993 school year and the state
10 aid per student to which the district is entitled under the
11 provisions of this Act for the 1990-1991 school year;

12 (3) 75 percent or a different percentage as may be set
13 by the foundation school fund budget committee of the difference
14 between the state aid per student to which the district is
15 otherwise entitled under the provisions of this Act for the
16 1993-1994 school year and the state aid per student to which the
17 district is entitled under the provisions of this Act for the
18 1990-1991 school year.

19 (b) Unless determined to be different amounts for the
20 1993-1994 and 1994-1995 school years by the foundation school fund
21 budget committee under the authority granted to it in Subsection
22 (d), Section 16.256, Education Code, as added by this Act, the
23 following shall be used in determining eligibility for state aid
24 and special program allotment amounts beginning in the 1991-1992
25 school year:

26 (1) the basic allotment only for purposes of

1 determining the amounts of funds which school districts must allot
2 for special programs under Subchapter D, Chapter 16, Education
3 Code, under provisions of this Act shall be \$1,965 for the
4 1991-1992 school year, \$2,019 for the 1992-1993 school year, \$2,074
5 for the 1993-1994 school year, and \$2,128 for the 1994-1995 school
6 year; and

7 (2) the minimum tax effort per hundred dollars of
8 valuation required under Section 16.252, Education Code, shall be
9 \$0.54 for the 1991-1992 school year, \$0.54 for the 1992-1993 school
10 year, \$0.62 for the 1993-1994 school year, and \$0.70 for the
11 1994-1995 school year.

12 SECTION 1.21. No district shall receive less funds for the
13 1990-1991 school year than the district would have received under
14 the prior provisions of the Education Code, with the exception that
15 the financial impact of the provisions relating to average daily
16 attendance under Section 16.006, Education Code, shall not be held
17 harmless. The commissioner of education shall provide for
18 appropriate calculations to implement this section.

19 SECTION 1.22. (a) Subsection (c), Section 16.151;
20 Subsection (e), Section 16.152, as added by Section 9, Chapter 816,
21 Acts of the 71st Legislature, Regular Session, 1989; Section
22 16.176; Section 16.177; Subsections (a), (b), (c), and (e), Section
23 16.178; Section 16.179; and Section 16.180, Education Code, are
24 repealed effective immediately.

25 (b) Effective September 1, 1991, Subsection (c), Section
26 16.102, Subsection (e), Section 16.103, and Subsection (d), Section

1 16.178, Education Code, are repealed.

2 SECTION 1.23. (a) Sections 1.06 and 1.07 of this article
3 take effect September 1, 1991.

4 (b) Sections 1.13 and 1.15 of this article take effect
5 immediately.

6 ARTICLE 11. ACCOUNTABILITY

7 SECTION 2.01. Section 2.01, Education Code, is amended to
8 read as follows:

9 Sec. 2.01. PUBLIC EDUCATION IN GENERAL; GOALS FOR PUBLIC
10 EDUCATION. The objective of state support and maintenance of a
11 system of public education is education for citizenship and is
12 grounded upon conviction that a general diffusion of knowledge is
13 essential for the welfare of Texas and for the preservation of the
14 liberties and rights of citizens. The goals of public education
15 are as follows:

16 GOAL A: All students shall have an opportunity to benefit
17 from an appropriate education. The achievement gap between
18 educationally disadvantaged students and other populations will be
19 closed. Through enhanced dropout prevention efforts, the
20 graduation rate will be raised to 95 percent of students who enter
21 the seventh grade.

22 GOAL B: The state shall be within national norms for student
23 performance.

24 GOAL C: A well-balanced and appropriate curriculum will be
25 provided to all students.

26 GOAL D: Qualified and effective personnel will be attracted

1 and retained. Adequate and competitive compensation commensurate
2 with responsibilities will be ensured. Qualified staff in critical
3 shortage areas will be recruited, trained, and retained.

4 GOAL E: The organization and management of all levels of the
5 educational system will be productive, efficient, and accountable.

6 GOAL F: Instruction and administration will be improved
7 through research that identifies creative and effective methods.
8 Demonstration programs will be developed and local initiatives
9 encouraged for new instructional arrangements and management
10 techniques. Technology will be used to increase the equity,
11 efficiency, and effectiveness of classroom instruction,
12 instructional management, and administration.

13 SECTION 2.02. Section 327.005, Government Code, is amended
14 to read as follows:

15 Sec. 327.005. POWERS AND DUTIES. (a) The board shall
16 oversee and review the implementation of legislative education
17 policy[~~,-including-fiscal-policy,~~] by state agencies that have the
18 statutory duty to implement that policy, including policy relating
19 to:

- 20 (1) fiscal matters;
21 (2) academic expectations; and
22 (3) evaluation of program cost-effectiveness. The

23 board may require information and reports from state agencies as
24 necessary to carry out its duties.

25 (b) For purposes of carrying out its duties, the board may
26 administer oaths and issue subpoenas, signed by the chairman or

1 vice-chairman, to compel the attendance of witnesses and the
2 production of books, records, and documents. A subpoena of the
3 board shall be served by a peace officer in the manner in which
4 district court subpoenas are served. On application of the board,
5 a district court of Travis County shall compel compliance with a
6 subpoena issued by the board in the same manner as for district
7 court subpoenas.

8 (c) The board shall make recommendations to the legislature
9 concerning needed changes in legislative education policy.

10 (d) The board may appoint advisory committees composed of
11 citizens of the state to advise the board in the discharge of the
12 board's duties. A member of an advisory committee appointed under
13 this section serves without compensation but is entitled to
14 reimbursement for actual expenses incurred in the performance of
15 the member's duties.

16 (e) The board may employ staff as necessary for the
17 performance of its duties, as allowed by legislative appropriation,
18 or may request and use staff provided by the Texas Legislative
19 Council or the Legislative Budget Board. Such staff, if any, shall
20 be available to all members of the legislature.

21 ~~(f) [The Texas Legislative Council shall provide--staff--for~~
22 ~~the board as necessary to the performance of its duties.]~~

23 [(e)] State agencies shall cooperate with and assist the
24 board at the board's request.

25 SECTION 2.03. Section 327.006, Government Code, is amended
26 to read as follows:

1 Sec. 327.006. REVIEW OF EDUCATIONAL POLICY [CURRICULUM]
2 IMPLEMENTATION. (a) The board shall periodically [biennially]
3 review the actions or proposed actions of [curriculum-rules-adopted
4 by] the State Board of Education [under Section 21.101, Education
5 Code,] for the purpose of ensuring compliance with legislative
6 intent.

7 (b) If the board determines that any action or proposed
8 action of the State Board of Education conflicts with legislative
9 educational policy, the board shall submit its comments on the
10 conflict to the State Board of Education in writing.

11 (c) If the board determines that a final action of the board
12 conflicts with the intent of legislative educational policy, the
13 board may:

14 (1) request additional information from the State
15 Board of Education relating to the intent of the board's action;

16 (2) request a joint meeting with the State Board of
17 Education to discuss the conflict between the action and
18 legislative educational policy;

19 (3) request that the State Board of Education
20 reconsider its action; or

21 (4) notify the governor, lieutenant governor, speaker
22 of the house, and the legislature of the conflict presented.

23 SECTION 2.04. Subchapter A, Chapter 11, Education Code, is
24 amended by adding Section 11.2091 to read as follows:

25 Sec. 11.2091. MINORITY RECRUITMENT PROGRAMS. (a) The Texas
26 Higher Education Coordinating Board in cooperation with the

1 commissioner of education shall establish a program to assist in
2 the recruitment of minorities into the education profession. The
3 program may include, but is not limited to, the following:

4 (1) tuition or grant assistance programs;

5 (2) incentive scholarship programs utilizing funds
6 under Subchapter C, Chapter 56, of this code, to encourage
7 minorities to enter the education profession;

8 (3) cooperation with institutions of higher education
9 to conduct recruitment seminars, job fairs, and mentorship
10 programs;

11 (4) cooperation with public school districts to
12 conduct career exploration programs in the area of public
13 education; and

14 (5) cooperation with education interest groups and
15 organizations to conduct career exploration programs, recruitment
16 seminars, job fairs, and mentorship programs.

17 (b) Funds appropriated for these programs shall be
18 specifically allocated by the board in its annual budget process
19 and shall be monitored by the board to determine that the program
20 is meeting goals established by the board.

21 SECTION 2.05. Subsections (a) and (d), Section 11.23,
22 Education Code, are amended to read as follows:

23 (a) The board shall hold four [regular] meetings a year in
24 Austin, Texas, on dates determined by the chairman and [the second
25 Saturday in January,--March,--May,--July,--September,--and--November.
26 It] may hold other meetings [as scheduled by its formal sessions

1 or] as may be called by the chairman.

2 (d) The governor, with the advice and consent of the senate,
3 appoints the chairman of the State Board of Education from among
4 the membership of the State Board of Education. The chairman
5 serves a term of two years.

6 SECTION 2.06. Section 11.24, Education Code, is amended to
7 read as follows:

8 Sec. 11.24. GENERAL POWERS AND DUTIES. (a) In addition to
9 performing its duties under the constitution, the [The] State Board
10 of Education shall take actions necessary to implement legislative
11 policy [is--the--policy-forming--and-planning-body] for the public
12 school system of the state. The board shall include in the record
13 of its meetings th legislative authority for each action taken by
14 the board. The board shall consider any comments submitted by the
15 Legislative Education Board on a proposed rule before voting on
16 final adoption of the rule. If the board is unsure of the
17 legislative intent of any legislative enactment, the board may
18 request a joint meeting with the Legislative Education Board to
19 discuss the intent.

20 (b) The board is [is-shall] also [be] the State Board for
21 Vocational Education and as such, the board shall have all the
22 powers and duties conferred on it by the various statutes relating
23 to the State Board for Vocational Education. The State Board of
24 Education (State Board for Vocational Education) may contract with
25 the Texas Higher Education Coordinating Board[is--Texas--College--and
26 University--System,] so that the coordinating board may assume the

1 leadership role and administrative responsibility of the State
2 Board for Vocational Education for state level administration of
3 technical-vocational education programs in Texas public community
4 colleges, public technical institutes, and other eligible public
5 postsecondary institutions.

6 ~~(b) As one part of the Central Education Agency, the State~~
7 ~~Board of Education shall have specific responsibility for adopting~~
8 ~~policy, enacting regulations, and establishing general rules for~~
9 ~~carrying out the duties placed on it or the Central Education~~
10 ~~Agency by the legislature.)~~

11 SECTION 2.07. Subsection (c), Section 11.26, Education Code,
12 is amended to read as follows:

13 (c) With the advice and assistance of the state commissioner
14 of education, the State Board of Education shall:

15 (1) ~~[formulate and present to the governor and~~
16 ~~Legislative Budget Board the proposed budget or budgets for~~
17 ~~operating the Foundation-School Program, the Central Education~~
18 ~~Agency, and the other programs for which it has responsibility,~~

19 ~~(2) adopt operating budgets on the basis of~~
20 ~~appropriation by the legislature,~~

21 ~~(3) establish procedures for budgetary control,~~
22 ~~expending, auditing, and reporting on expenditures within the~~
23 ~~budgets adopted,~~

24 ~~(4) file to the legislature biennial reports~~
25 ~~covering all the activities and expenditures of the Central~~
26 ~~Education Agency;~~

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1 (2) [~~5~~] adopt rules for the accreditation of
2 schools;

3 (3) [~~6~~] execute contracts for the purchase of
4 instructional aids, including textbooks, within the limits of
5 authority granted by the legislature;

6 (4) [~~7~~] execute contracts for the investment of the
7 permanent school fund, within the limits of authority granted by
8 Chapter 15 of this code;

9 (5) [~~8~~] adopt rules consistent with Chapter 13 of
10 this code for certification of teachers, administrators, and other
11 professional personnel customarily employed in public schools;

12 (6) [~~9~~] adopt rules requiring school districts to
13 notify parents of students of a teacher teaching a subject for
14 which the teacher is not certified, unless the teacher is serving
15 an internship under Section 13.035 of this code, or the teacher has
16 at least 24 semester credit hours in the subject, or the teacher is
17 teaching under an emergency permit and is making satisfactory
18 progress toward completion of a deficiency plan;

19 (7) [~~10~~] consider the athletic necessities and
20 activities of the public schools of Texas and in advance of each
21 regular session of the legislature specifically report to the
22 governor of Texas the proper and lawful division of time and money
23 to be devoted to athletics, holidays, legal and otherwise, and to
24 educational purposes; and

25 (8) [~~11~~] on or before May 15 of each year, formulate
26 and transmit to the Texas Council on Vocational Education a list of

1 evaluation topics that address developing and future concerns of
2 the board in the field of technical-vocational education.

3 SECTION 2.08. Subsection (a), Section 11.29, Education Code,
4 is amended to read as follows:

5 (a) The commissioner of education [State-Board-of-Education]
6 shall adopt annually a budget for operating the Foundation School
7 Program, [the-operation-of] the Central Education Agency, and other
8 programs for which the State Board of Education has responsibility.
9 The budget shall be in accordance with the amounts appropriated by
10 the general appropriations act and shall provide funds for the
11 administration and operation of the Central Education Agency and
12 any other necessary expense. Before adopting the budget, the
13 commissioner shall:

14 (1) submit the budget to the State Board of Education
15 and the Legislative Education Board for review and comment; and

16 (2) after receiving the comments of those boards,
17 present the budget to the governor and the Legislative Budget
18 Board.

19 SECTION 2.09. Section 11.51, Education Code, is amended to
20 read as follows:

21 Sec. 11.51. SELECTION AND QUALIFICATIONS. (a) The State
22 Board of Education shall recommend to the governor a person to be
23 named commissioner of education. The governor shall either reject
24 the recommendation or appoint the person as commissioner of
25 education. The appointment requires the advice and consent of the
26 senate. If the governor rejects the recommendation, the board

1 shall submit further recommendations until one is appointed by the
 2 governor and confirmed by the senate. (The--Office--of--State
 3 Commissioner-of-Education-is-a-unit-of-the-General-Education-Agency
 4 and-shall-be-filled-in-accordance-with-the-provisions-of--Section
 5 11.25-of-this-code.)

6 (b) The commissioner of education serves a term of office of
 7 four years expiring on March 1 of the appropriate odd-numbered
 8 year. The governor, with the advice and consent of the senate, may
 9 remove the commissioner of education on the petition of two-thirds
 10 of the membership of the State Board of Education or may remove for
 11 good cause. The commissioner of education may serve consecutive
 12 terms.

13 (c) The [state] commissioner of education shall be a person
 14 of broad and professional educational experience, with special and
 15 recognized abilities of the highest order in organization,
 16 direction, and coordination of education systems and programs, and
 17 in administration and management of public schools and public
 18 education generally. The commissioner of education shall be a
 19 citizen of the United States.

20 (d) [(e)] The commissioner shall execute an [his] official
 21 bond in a sum not to exceed \$50,000, conditioned on the faithful
 22 performance of the commissioner's [his] duties as required by the
 23 laws of Texas [and-the-rules-and-regulations-imposed-by-the-State
 24 Board-of-Education], and pursuant to the provisions of Chapter 383,
 25 Acts of the 56th Legislature, Regular Session, 1959 (Article 6003b,
 26 Vernon's Texas Civil Statutes).

1 SECTION 2.10. Subchapter B, Chapter 13, Education Code, is
2 amended by adding Section 13.049 to read as follows:

3 Sec. 13.049. MODERN TEACHING PRACTICES. (a) Standards
4 adopted under Section 13.032 or 13.035 of this code for teacher
5 training shall include training in the use of technology and
6 effective teaching practices in the classroom.

7 (b) Regional education service centers, teacher centers,
8 institutions of higher education with approved teacher education
9 programs, and other appropriate educational entities shall offer
10 in-service training for public school teachers and other
11 educational personnel in the use of technology and effective
12 teaching practices in the classroom and in making district-level
13 decisions.

14 SECTION 2.11. Subchapter B, Chapter 19, Education Code, is
15 amended by adding Section 19.027 to read as follows:

16 Sec. 19.027. ACADEMICALLY UNACCREDITED SCHOOL DISTRICTS.

17 (a) The commissioner of education by order may annex to one or
18 more adjoining districts a school district that has been rated as
19 academically unaccredited for a period of two years.

20 (b) The governing board of a district to which territory of
21 an academically unaccredited district is annexed is the governing
22 board for the new district.

23 (c) The order of the commissioner shall define by legal
24 boundary description the territory of the new district as enlarged.

25 (d) Title to the real property of the academically
26 unaccredited district vests in the district to which the property

1 is annexed. Each district to which territory is annexed assumes
 2 and is liable for any portion of the academically unaccredited
 3 district's indebtedness that is allocated to the receiving district
 4 under Section 19.004 of this code.

5 (e) Before the commissioner orders an annexation under this
 6 section, the commissioner shall investigate the educational and
 7 financial impact of the annexation on the receiving district. The
 8 commissioner may order the annexation only if the commissioner
 9 finds that the annexation will not substantially impair the ability
 10 of the receiving district to educate the students located in the
 11 district prior to the annexation and to meet its financial
 12 obligations incurred prior to the annexation.

13 (f) For five years beginning with the school year in which
 14 the annexation occurs, the commissioner shall annually adjust the
 15 local fund assignment of a district to which territory is annexed
 16 under this section by multiplying the enlarged district's local
 17 fund assignment calculated under Section 16.252 of this code by a
 18 fraction, the numerator of which is the number of students residing
 19 in the district preceding the date of the annexation and the
 20 denominator of which is the number of students residing in the
 21 district as enlarged on the date of the annexation. A district
 22 that receives an adjustment to its local fund assignment under this
 23 section is not eligible for incentive aid under Subchapter G of
 24 Chapter 23 of this code.

25 (g) A district to which territory is annexed under this
 26 section is entitled to additional state aid equal to the amount by

1 which the annual debt service required to meet the indebtedness
 2 incurred by the district due to the annexation exceeds the
 3 additional amount of state aid that results from the adjustment
 4 under Subsection (f) of this section, if any. In determining the
 5 amount of annual debt service required, the estimated tax levy from
 6 applying the receiving district's current debt service tax rate, if
 7 any, to the territory that has been annexed shall be deducted.

8 SECTION 2.12. Section 21.258, Education Code, is amended to
 9 read as follows:

10 Sec. 21.258. PERFORMANCE REPORT. (a) Each board of
 11 trustees shall publish an annual [performance] report describing
 12 the district's educational performance that includes campus
 13 performance objectives established under Section 21.7532 of this
 14 code and the progress of each campus toward those objectives, which
 15 shall be available to the public and filed with the State Board of
 16 Education. The board shall hold a hearing for public discussion of
 17 the report. The board shall notify property owners and parents in
 18 the district of the hearing. The board may combine the notice with
 19 the notice of a public hearing on a proposed tax increase required
 20 under Section 26.14, Tax Code. After the hearing the report shall
 21 be widely disseminated within the district in a manner to be
 22 determined by the district (describing-the-district's-educational
 23 performance--and--giving-financial-information-related-to-the-costs
 24 incurred-by-the-district).

25 (b) The [State-Board-of-Education-by--rule--shall--prescribe
 26 the--form--and--content--of-the-report--in-adopting-the-rules--the

1 board-may-not-impose-requirements-that-contribute-unnecessarily--to
2 the--length-or-complexity-of-the-report,-and-to-the-extent-possible
3 shall-provide-for-each-report-topic-required-by-this-subsection--or
4 by--board--rule--to--be--presented--in--a--manner--that--allows-the
5 presentation-to-be-limited-to-not-more-than-one-page-in-length--per
6 topic.---At-a-minimum,-the report may [must] include the following
7 information by campus:

- 8 (1) evaluations of the quality of education based on
9 the information contained in the report;
- 10 (2) scores on tests with national norms;
- 11 (3) reports of performance trends improvement or lack
12 of improvement;
- 13 (4) statements of costs for instruction, instructional
14 administration, and central administration;
- 15 (5) attendance data and dropout rates;
- 16 (6) reports on discipline;
- 17 (7) data on employees, trends in employment, and
18 turnover;
- 19 (8) teacher ratios by grade groupings and by program;
20 and
- 21 (9) statement of efforts to reduce the amount of
22 paperwork required of teachers and administrators.

23 (c) The report must also include a comparison provided by
24 the Central Education Agency of:

- 25 (1) the performance of each campus to the performance
26 of campuses with similar wealth and demographics and of the

1 district to districts statewide for information required under
 2 Subsections (b)(4), (5), (7), and (8) of this section and all
 3 academic indicators under Section 21.7531 of this code; and

4 (2) the performance of each district to the projection
 5 of expected performance of that district considering the wealth and
 6 demographics of the district. [A report under this section must
 7 also include information about the number of students in each
 8 classroom, including instrumental and choral music classrooms, per
 9 class period. The report must specify, by grade, the number of
 10 classrooms, including instrumental and choral music classrooms, in
 11 which in any class period the number of students exceeds:

12 [(1) for kindergarten through 8th grade, 20;

13 [(2) for high school, 25; and

14 [(3) for special education, 10.]

15 (d) The State Board of Education by rule shall authorize the
 16 combination of this report with other reports and financial
 17 statements and shall restrict the number and length of reports that
 18 school districts, [and] school district employees, and school
 19 campuses are required to prepare.

20 [(e) Each district shall also annually report to the
 21 commissioner the number of teachers on the career ladder, the
 22 number of teachers at each level, and the sex and ethnicity of
 23 those teachers. That information shall be collected in a biennial
 24 report to the legislature with the information reported by school
 25 districts.

26 [(f) Reports to the legislature under this section shall be

1 ~~filed--with--the--Legislative--Budget--Board--and--the--appropriate~~
2 ~~committees-of-each-house-}~~

3 SECTION 2.13. Section 21.551, Education Code, is amended by
4 adding Subsections (f), (g), (h), and (i) to read as follows:

5 (f) The State Board of Education shall adopt one
6 appropriate, nationally recognized, norm-referenced assessment
7 instrument to be administered uniformly to each pupil at each of
8 the 4th, 6th, 8th, and 10th grade levels. The norm-referenced
9 assessment instrument adopted must be a secured test. The state
10 shall pay the costs of purchasing and scoring the adopted
11 assessment instrument and of distributing the results of the
12 adopted instrument to the school districts.

13 (g) The norm-referenced assessment instrument adopted must
14 meet all applicable federal rules and regulations. The normative
15 data used by the instrument must fairly represent all minority and
16 socio-economic groups.

17 (h) The norm-referenced assessment instrument bidders shall
18 disclose all bias information and data regarding studies and
19 procedures used for norming and item tryouts. The publisher of the
20 assessment instrument shall provide documentation to ensure that
21 student test scores will be as accurate as possible.

22 (i) For accountability purposes, the norm-referenced
23 assessment instrument shall measure the content that is appropriate
24 for the age and grade of the students through consistent tests in
25 the areas of reading, mathematics, language arts, science, and
26 social studies across all targeted grade levels where beneficial.

1 for measuring academic progress. The instrument shall measure the
2 applications of higher order thinking skills across all content
3 areas. The proportion of higher order thinking skills measured
4 must be appropriate for the age and grade of the students. The
5 norm-referenced assessment instrument bidder shall disclose the
6 procedures used, including item classifications, to ensure adequate
7 measurement of higher order thinking skills.

8 SECTION 2.14. Section 21.753, Education Code, is amended to
9 read as follows:

10 Sec. 21.753. ACCREDITATION STANDARDS. (a) The State Board
11 of Education shall adopt rules for the accreditation of school
12 districts. The rules shall include criteria to evaluate the
13 performance of school districts and to rate each district for
14 accreditation purposes as:

- 15 (1) exemplary;
- 16 (2) recognized;
- 17 (3) accredited;
- 18 (4) accredited advised; or
- 19 (5) academically unaccredited (warned-or
- 20 [(6)--unaccredited]).

21 (b) ~~[(The--board-may-not-rate-a-number-of-school-districts-as~~
22 ~~exemplary-that-exceeds-40-percent-of-the-number-of-districts--rated~~
23 ~~as-recognized.~~

24 [(+)] The criteria in the accreditation rules must include
25 consideration of:

- 26 (1) goals and objectives of the district;

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(2) compliance with statutory requirements and requirements imposed by rule of the State Board of Education under statutory authority;

(3) adequate performance under the indicators adopted under Section 21.7531 of this code;

(4) the relation between the academic excellence indicators adopted by the board under Section 21.7531 of this code and the campus performance objectives established under Section 21.7532 of this code, including the manner in which the campus performance objectives were established and the progress of the campus in meeting the objectives;

(5) the quality of learning on each of the district's campuses based on indicators including [such--as] scores on achievement tests;

(6) [4+] the quality of the district's appraisal of teacher performance and of administrator performance;

(7) [5+] the effectiveness of district principals as instructional leaders;

(8) the effectiveness of the district's campuses on the basis of the most current criteria identified by research on effective schools;

(9) [6+] the fulfillment of curriculum requirements;

(10) [7+] the effectiveness of the district's programs in special education based on the Central Education Agency's most recent compliance review of the district and programs for special populations;

(11) ~~{8}--the--correlation--between--student--grades--and--~~
~~performance--on--standardized--tests,~~

~~{9} the effectiveness [quality] of teacher~~
~~in-service training;~~

~~{10}--paperwork--reduction--efforts,~~

~~{11}--training--received--by--board--members;~~

(12) the effective use of technology to enhance
student achievement; ~~[effectiveness--of--the--district's--efforts--to~~
~~improve--attendance.]~~

(13) the effectiveness of the district's remedial and
support programs under Section 21.557 of this code for students at
risk of dropping out of school;

(14) the effectiveness of the district's dropout
prevention and recovery programs; and

(15) ~~[the--effectiveness--of--the--district's--drug--abuse~~
~~prevention--programs;~~

~~{16}--parental---and---community--involvement---in--the~~
~~district;~~

~~{17} efficient allocation of available resources;~~
~~and~~

~~{18}--adequate---performance---under---the--indicators~~
~~adopted--under--Section--21.7531--of--this--code}.~~

(c) The Central Education Agency shall rate each campus in a
district on the basis of the campus's performance on the indicators
under Section 21.7531 of this code using the rating
criteria provided for districts under Subsection (a) of this

1 section.

2 (d) The accreditation rating of a school district or campus
3 under this section may not be lowered solely on the basis of size.

4 SECTION 2.15. Section 21.7531, Education Code, is amended to
5 read as follows:

6 Sec. 21.7531. ACADEMIC EXCELLENCE (PERFORMANCE) INDICATORS.

7 (a) The State Board of Education, on the advice of the academic
8 excellence indicators advisory committee, the educational
9 excellence committee, and the Legislative Education Board, shall
10 adopt a set of indicators of the quality of learning on a campus
11 and other performance standards. The board biennially shall review
12 the indicators for the consideration of appropriate revisions.

13 (b) Performance on the indicators required by this section
14 shall be compared to a projection of expected performance for
15 purposes of evaluation, accreditation, and determination of
16 exemplary status. The indicators must include:

17 (1) the results of criterion-referenced assessment
18 instruments required under Section 21.551 of this code; [a
19 comparison-of-the-district's-performance-to--a--projection--of--the
20 district's-expected-performance;-and]

21 (2) the results of tests with national norms,
22 including the Scholastic Aptitude Test and the American College
23 Test;

24 (3) high school graduation rates;

25 (4) student attendance;

26 (5) student enrollment in advanced academic courses;

1 and

2 (6) the degree of change from one school year to the
3 next in the items under Subdivisions (1) through (5) of this
4 subsection, considering the impact of student mobility [the Central
5 Education Agency in most recent compliance review of the district's
6 special education program].

7 (c) The State Board of Education shall report the status of
8 education in the state as reflected by the indicators to the
9 legislature not later than February 1 of each odd-numbered year.

10 (d) The academic excellence indicators adopted under this
11 section shall be the main consideration of the Central Education
12 Agency in the rating of a district under Section 21.753 of this
13 code.

14 (e) The Educational Economic Policy Center shall biennially
15 review the indicators adopted under this section and recommend
16 changes in those indicators to the State Board of Education and the
17 Legislative Education Board.

18 SECTION 2.16. Subchapter T, Chapter 21, Education Code, is
19 amended by adding Section 21.7532 to read as follows:

20 Sec. 21.7532. CAMPUS PERFORMANCE OBJECTIVES. (a) For each
21 school year, the principal of each school campus, with the
22 assistance of parents, community residents, and the professional
23 staff of the school as provided for through the procedure
24 established in Section 21.930 of this code, shall establish
25 academic and other performance objectives of the campus for each
26 academic excellence indicator adopted under Section 21.7531 of this

1 code. The objectives shall also address the performance of special
2 needs students. The objectives must be approved by the district's
3 board of trustees.

4 (b) In this section "parent" means a person who is a parent
5 of or person standing in parental relation to a student enrolled at
6 a school and who is not an employee of the school or the school
7 district; "community resident" means a person 18 years of age or
8 older residing in the attendance area of a school but does not
9 include a person who is a parent of a student enrolled in that
10 school or a person who is an employee of the school or the school
11 district.

12 SECTION 2.17. Section 21.754, Education Code, is amended to
13 read as follows:

14 Sec. 21.754. INVESTIGATIONS. (a) The Central Education
15 Agency shall annually review the performance of each district and
16 campus on the indicators adopted in Section 21.7531 of this code
17 and determine if specific action is warranted. The review may
18 include limited [determine-whether-each-school-district-satisfies
19 the-accreditation-criteria-from-reports--furnished--by--the--school
20 district-or-from-an] on-site evaluation if necessary.

21 (b) The State Board of Education by rule shall establish a
22 schedule for on-site evaluations by the Central Education Agency.
23 The rules must require that:

24 (1) each district is visited and all accreditation
25 criteria investigated not less than once every six years, except
26 that the board may extend that period for districts rated:

1 (A) as exemplary for an additional period not to
2 exceed two years; and

3 (B) as recognized for an additional period not
4 to exceed one year;

5 (2) each district rated as accredited advised is
6 visited and assisted not less than once every two years;

7 (3) each district rated as academically unaccredited
8 [warned] is visited and assisted not less than once each year; and

9 (4) each district that has a poor performance under
10 the indicators adopted under Section 21.7531 of this code is
11 investigated more frequently than otherwise required under this
12 section.

13 (c) Each annual review shall include an analysis of:

14 (1) student performance;

15 (2) attendance, promotion, and dropout rates;

16 (3) program costs; and

17 (4) [results-of-teacher-and-parent-surveys;-and

18 [;}] other information required by the board.

19 (d) In compliance with Section 21.925 of this code, the
20 board shall make optimum use of the agency's public education
21 information management system to minimize the written reporting
22 requirements of school districts.

23 (e) To determine if a district qualifies for a higher rating
24 or on identification of potential problems, the commissioner may
25 direct the agency to conduct on-site investigations at any time and
26 may raise or lower the accreditation rating as a [as] result of the

1 investigation.

2 (f) ~~(The agency shall direct investigators to be alert to~~
3 ~~any fundamental deficiencies in a district's educational system,~~
4 ~~such as failure of the district to satisfy curriculum requirements,~~
5 ~~and to report deficiencies to agency staff responsible for research~~
6 ~~and planning.~~

7 [§] In making an accreditation investigation, the
8 investigators shall obtain information from campus administrators,
9 teachers, and parents of students enrolled at [in] the campus
10 [district]. The investigation may not be closed until information
11 is obtained from each of those sources. The board shall adopt
12 rules for:

13 (1) obtaining information from parents and using that
14 information in the investigator's report; and

15 (2) obtaining information from teachers in a manner
16 that prevents the campus or district from screening the
17 information.

18 (g) [h] The agency shall give written notice to the
19 superintendent and the board of trustees of any impending
20 investigation of the district's accreditation.

21 (h) If an annual review from reports furnished by the school
22 district indicates low performance on one or more of the criteria
23 listed in Subsection (c) of this section of one or more campuses in
24 a district, the agency may conduct an on-site evaluation of those
25 campuses only.

26 SECTION 2.18. Section 21.757, Education Code, is amended to

1 read as follows:

2 Sec. 21.757. SANCTIONS. (a) If a district does not satisfy
3 the accreditation criteria, the commissioner of education shall
4 take the following actions to the extent the commissioner
5 determines necessary:

6 (1) confidential notice of the deficiency to any
7 accreditation committee of the board of trustees and to the
8 district superintendent;

9 (2) public notice of the deficiency to the board of
10 trustees;

11 (3) appointment of an agency monitor to participate in
12 and report to the agency on the activities of the board of
13 trustees; [and]

14 (4) appointment of a master to oversee the operations
15 of the district; and

16 (5) appointment of a management team to oversee the
17 operations of the district.

18 (b) If a campus is rated accredited advised or academically
19 unaccredited, the commissioner shall take the following actions to
20 the extent the commissioner determines necessary:

21 (1) appointment of a monitor, master, or management
22 team to oversee the operations of the campus; or

23 (2) order the board of trustees or the superintendent
24 to take certain actions relating to the operations of the campus.

25 (c) If a district fails to satisfy accreditation criteria
26 despite the actions of the commissioner under this section, the

1 commissioner [State-Board-of-Education] shall revoke the district's
2 accreditation [and-shall-withhold-state-funds-from--the--district].

3 (d) [to] The costs of providing a monitor, [or-a] master,
4 or management team shall be paid by the district.

5 (e) A master or management team appointed to oversee the
6 operations of the district may approve or disapprove any action of
7 the principal of a campus, the superintendent of the district, or
8 the board of trustees of the district.

9 (f) A master or management team appointed to oversee the
10 operations of a campus may approve or disapprove any action that
11 relates to the campus and that is taken by the principal of the
12 campus, the superintendent of the district, or the board of
13 trustees of the district.

14 (g) [to] A district that is rated academically unaccredited
15 [does--not--have-a-rating-above-accredited-advised] for a period of
16 two [three] years shall be annexed to another district under
17 Section 19.027 of this code or the commissioner shall order the
18 creation of a state-operated school district under Section 21.758
19 of this code [is--unaccredited--at-the-conclusion-of-that-period
20 unless-the-district-qualifies-for-a-rating-above-accredited-advised
21 at-that-time].

22 (h) Notwithstanding any provision to the contrary, a
23 district that is rated accredited advised or academically
24 unaccredited for a period of two consecutive years may not enter
25 into a contract with an administrator for a term greater than one
26 year unless the administrator has not been previously employed by

1 the district. This subsection does not apply if it is determined
2 by the accreditation review that the reasons for the district being
3 rated accredited advised or academically unaccredited are not
4 related to substantial deficiencies in the administrator's
5 performance.

6 SECTION 2.19. Subchapter T, Chapter 21, Education Code, is
7 amended by adding Section 21.758 to read as follows:

8 Sec. 21.758. STATE-OPERATED SCHOOL DISTRICT. (a) The
9 commissioner of education may order the suspension of the powers of
10 the board of trustees of a school district if the school district
11 has been rated academically unaccredited for a period of two years.
12 The commissioner shall immediately inform the Legislative Education
13 Board of the commissioner's decision to order the suspension.

14 (b) At the time the commissioner enters the order, the
15 commissioner shall appoint a board of managers to execute the
16 powers of the board of trustees during the period of suspension and
17 shall appoint a district superintendent. The appointed
18 superintendent shall perform all acts and duties necessary for the
19 proper conduct, maintenance, and supervision of the schools in the
20 district. The board of managers and the superintendent shall be
21 appointed for terms not to exceed two years from the date that the
22 order of suspension is entered.

23 (c) The appointed superintendent shall report annually to
24 the commissioner on the progress of the school district toward
25 meeting the requirements necessary for accreditation. The
26 commissioner shall report to the Legislative Education Board

1 annually on the district's progress.

2 (d) Based on the annual assessment of progress of the school
3 district, but no later than two years after the date that the order
4 of suspension is entered, the commissioner shall order that the
5 suspension be terminated or that the district be annexed under
6 Section 19.027 of this code.

7 (e) If the commissioner determines that the suspension
8 should be terminated, the appointed superintendent and the members
9 of the superintendent's staff shall continue to serve for a
10 one-year transition period.

11 (f) An appointed superintendent may apply to the
12 commissioner for an exemption for the school district from a
13 requirement or prohibition imposed under this code, including a
14 rule adopted under this code, other than a prohibition of conduct
15 that constitutes a criminal offense or a requirement or prohibition
16 included under Section 11.272(b) of this code.

17 SECTION 3.20. Section 21.920, Education Code, is amended by
18 adding Subsection (e) to read as follows:

19 (e) An appeal to the commissioner of education is not a
20 contested case under the Administrative Procedure and Texas
21 Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) if
22 the issues presented relate to a student's eligibility to
23 participate in extracurricular activities, including issues related
24 to the student's grades or the school district's grading policy as
25 applied to the student's eligibility. The commissioner may
26 delegate the matter for decision to a person or entity the

1 commissioner designates. The decision of the commissioner or the
2 commissioner's designee in a matter governed by this subsection may
3 not be appealed except on the grounds that the decision is
4 arbitrary or capricious. Evidence may not be introduced on appeal
5 other than the record of the evidence before the commissioner.

6 SECTION 2.21. Subchapter Z, Chapter 21, Education Code, is
7 amended by adding Section 21.930 to read as follows:

8 Sec. 21.930. DISTRICT-LEVEL DECISION PROCESS. (a) The
9 board of trustees of each school district shall adopt a policy to
10 involve the professional staff of the district in establishing and
11 reviewing the district's educational goals, objectives, and major
12 district-wide classroom instructional programs.

13 (b) The board shall establish a procedure under which
14 meetings are held regularly with representative professional staff
15 and the board or board designee.

16 (c) The board shall adopt a procedure, consistent with
17 Section 21.904(a) of this code, for the professional staff within
18 the district to nominate and elect the representatives who will
19 meet with the board or the board designee as required under the
20 provisions of this section. Two-thirds of the elected
21 representatives must be classroom teachers. The remaining
22 representatives shall be campus-based staff.

23 (d) This section does not prohibit the board from conducting
24 meetings with teachers or groups of teachers other than the
25 meetings described by this section.

26 (e) Nothing in this section shall be construed to limit or

1 affect the power of a local school board of trustees to manage and
2 govern the public free schools of this state.

3 (f) Nothing in this section shall be construed as creating a
4 new cause of action or as requiring collective bargaining.

5 SECTION 2.22. Subsection (c), Section 11.13, Education Code,
6 is amended to read as follows:

7 (c) Any person, county, or school district aggrieved by any
8 action of the Central Education Agency or decision of the
9 commissioner of education may appeal to a district court in Travis
10 County, Texas. Appeals shall be made by serving the commissioner
11 of education with citation issued and served in the manner provided
12 by law for civil suits. The petition shall state the action or
13 decision from which the appeal is taken. Upon trial the court
14 shall determine all issues of law and fact, except as provided by
15 Section 21.920(e) of this code.

16 SECTION 2.23. Subchapter B, Chapter 403, Government Code, is
17 amended by adding Section 403.020 to read as follows:

18 Sec. 403.020. SCHOOL DISTRICT BUDGET REVIEW. The
19 comptroller may periodically review the effectiveness and
20 efficiency of the budgets and operations of school districts.

21 SECTION 2.24. Subsection (a), Section 11.14, Education Code,
22 is amended to read as follows:

23 (a) The provisions of this chapter shall not be construed to
24 give the State Board of Education, the commissioner of education,
25 the State Department of Education, or anyone whomsoever, the power
26 to close, to consolidate, or cause by regulation or rule to be

1 closed or consolidated, any public school district in this state.
2 This subsection does not affect the powers of the commissioner
3 under Section 19.027 of this code.

4 SECTION 2.25. All rules under Title 19, Texas Administrative
5 Code, Chapters 29 through 74 and 76 through 93 inclusive, that were
6 adopted by the State Board of Education before the effective date
7 of this Act are void as of June 1, 1991, regardless of the
8 effective date of the rules. All rules under Title 19, Texas
9 Administrative Code, Chapters 94 through 133 inclusive, that were
10 adopted by the State Board of Education before September 1, 1991,
11 are void as of June 1, 1992, regardless of the effective date of
12 the rules. All rules under Title 19, Texas Administrative Code,
13 Chapters 134 through 181 inclusive, that were adopted by the State
14 Board of Education before September 1, 1992, are void as of June 1,
15 1993, regardless of the effective date of the rules. In addition,
16 all rules relating to teaching time and methodology under Title 19,
17 Texas Administrative Code, Chapter 75, that were adopted by the
18 State Board of Education before the effective date of this Act are
19 void as of September 1, 1990, regardless of the effective date of
20 the rules.

21 SECTION 2.26. (a) Before February 1, 1991, the State Board
22 of Education shall submit to the governor the name of a person to
23 consider for appointment as the commissioner of education. The
24 governor shall nominate a person to serve as the commissioner of
25 education for a term beginning March 1, 1991, and expiring March 1,
26 1995.

1 (b) The person serving as commissioner of education on the
2 effective date of this Act shall continue to serve until an
3 appointment is made under Subsection (a) of this section unless
4 that person vacates the position or is removed. If that person
5 vacates the position before March 1, 1991, the governor shall
6 appoint a person to serve in that position until March 1, 1991.

7 SECTION 2.27. Not later than January 1, 1991, institutions
8 that offer teacher education programs shall develop an initial plan
9 under Section 13.049, Education Code, as added by this Act.

10 SECTION 2.28. The advisory committee appointed under Section
11 2.30, Chapter 813, Acts of the 71st Legislature, Regular Session,
12 1989, shall submit recommendations for the academic excellence
13 indicators to the State Board of Education. The board shall adopt
14 academic excellence indicators under Section 21.7531, Education
15 Code, not later than January 1, 1991.

16 SECTION 2.29. The following sections of the Education Code
17 are repealed:

- 18 (1) Subsection (c), Section 11.25;
19 (2) Subsection (a), Section 11.26; and
20 (3) Section 21.752.

21 SECTION 2.30. Section 2.13 of this article applies beginning
22 with the 1991-1992 school year. The former law applies for the
23 1990-1991 school year and is continued in effect for that purpose.

24 SECTION 2.31. Section 2.23 of this article takes effect
25 September 1, 1991.

ARTICLE III. EFFICIENCY

SECTION 3.01. Section 11.208, Education Code, as added by Chapter 658, Acts of the 71st Legislature, Regular Session, 1989, is amended by amending Subsection (b) and adding Subsections (d) through (f) to read as follows:

(b) The agreement shall include provisions for:

(1) the commission to assist regional education service centers in providing inservice training in substance abuse prevention for school districts;

(2) the joint annual review by the agency and the commission of the regional education service centers' substance abuse prevention and early intervention programs;

(3) the exchange of information between the agency and the commission relating to students in need of substance abuse prevention services; and

(4) a system to provide school districts [proven] model peer assistance [programs] for substance abuse prevention.

(d) The commission may provide a statewide peer assistance and leadership system to include the training of trainers, clearinghouse services, and technical assistance to school districts and to train and provide a full-time peer program coordinator for each regional education service center.

(e) The peer program coordinator may:

(1) assist school districts and campuses to develop and implement peer assistance and leadership programs;

(2) train teachers and other personnel for those

1 Programs:

2 (3) establish regional peer assistance and leadership
3 networks; and

4 (4) participate in the statewide peer assistance and
5 leadership network.

6 (f) The Central Education Agency jointly with the Texas
7 Commission on Alcohol and Drug Abuse may design a substance abuse
8 assessment and intervention program for the public schools. Each
9 school district may implement the program under guidelines adopted
10 by the agency and the commission.

11 SECTION 3.02. Section 11.27, Education Code, as added by
12 Chapter 287, Acts of the 71st Legislature, Regular Session, 1969,
13 is amended to read as follows:

14 Sec. 11.27. INNOVATIVE [DEMONSTRATION] PROGRAMS. (a) The
15 State Board of Education shall establish a process under which [a
16 limited--number--of] programs developed by school campuses
17 [districts] may be approved [by-the-board], notwithstanding lack of
18 compliance with other statutory requirements, to demonstrate
19 innovative educational practices.

20 (b) Innovative programs that may be approved under this
21 section include, but are not limited to, programs relating to:

22 (1) school year restructuring;

23 (2) alternative learning environments;

24 (3) parental literacy;

25 (4) decentralization of organizational decisions;

26 (5) instructional technology;

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- 1 (6) student and parental choice among public schools;
- 2 (7) child care;
- 3 (8) early childhood education;
- 4 (9) an extended school day;
- 5 (10) teacher and administrator development;
- 6 (11) continuous progress education;
- 7 (12) student-teacher ratios below 22:1 in elementary
8 grades;
- 9 (13) use of elementary school guidance counselors,
10 social workers, and other personnel in successful dropout
11 prevention programs;
- 12 (14) career development for students;
- 13 (15) bilingual training;
- 14 (16) the generation of more effective parental
15 involvement with the schools;
- 16 (17) school-age latch-key children;
- 17 (18) volunteer efforts with the private sector;
- 18 (19) coordination of school activities with community
19 health and human services programs and other community resources;
- 20 (20) magnet schools;
- 21 (21) interdisciplinary curriculum;
- 22 (22) peer tutoring;
- 23 (23) counseling of families of at-risk students; and
- 24 (24) comprehensive coordination with health and human
25 service delivery systems.
- 26 (c) Innovative program applications shall initially be

1 selected on a competitive, peer review basis by the program
2 advisory committee established under Section 11.271 of this code,
3 with final approval by the State Board of Education and, if the
4 program requires the expenditure of state funds, the Legislative
5 Education Board [A-demonstration-program-may-not-exceed-two-years
6 in-duration,-and-not-more-than-20--programs--may--be--approved--for
7 operation-at-any-one-time.

8 [(c) -- To -- be -- approved -- under -- this -- section, -- a demonstration
9 program must --

10 [(1) -- focus -- on -- improvements -- in -- educational
11 productivity, -- efficiency, -- and -- accountability, --

12 [(2) -- preserve -- to -- the -- satisfaction -- of -- the -- board -- the
13 rights -- of -- students, -- parents, -- and -- teachers -- granted -- by -- law, -- and

14 [(3) -- provide specific procedures for the evaluation of
15 the program].

16 (d) A school campus's [district's] application for approval
17 of a program under this section must include substantial evidence
18 that the campus [district] has adequately planned the program and
19 that the application has been approved by the district's board of
20 trustees.

21 (e) The approval by the State Board of Education of an
22 application under this section that requires the expenditure of
23 state funds is ineffective unless [A-demonstration-program-approved
24 under-this-section-may-not-result-in-an-increase-in-the--amount--of
25 state--funds--allocated-to-the-district-or-a-decrease-in-the-amount
26 allocated-to-any-other-district.

1 [~~f~~]~~--State funds may not be expended on a demonstration~~
 2 ~~program authorized by this section unless the program has been~~
 3 ~~reviewed and approved in advance by~~ the Legislative Education
 4 Board approves the expenditure of state funds for the program under
 5 the authority of Article XVI, Section 69, of the Texas
 6 Constitution.

7 (f) [~~g~~] If an innovative [~~a demonstration~~] program
 8 proposes a deviation from a requirement or prohibition imposed by
 9 state law or rule, final approval of the program [~~by the State~~
 10 ~~Board of Education~~] constitutes a waiver of the requirement or
 11 prohibition for the duration of the program. A prohibition on
 12 conduct that constitutes a criminal offense may not be waived.

13 (g) A school campus with an approved innovative program
 14 receiving funds under Section 11.271 of this code shall report on
 15 the progress of the program to the Central Education Agency not
 16 later than September 1 of each year after the school year that the
 17 funding is received and upon completion of the program.

18 (h) The Central Education Agency shall evaluate each
 19 program's effectiveness and shall report its findings to the
 20 Legislative Education Board and to the State Board of Education not
 21 later than December 1 preceding each regular session of the
 22 legislature.

23 SECTION 3.03. Subchapter B, Chapter 11, Education Code, is
 24 amended by adding Section 11.271 to read as follows:

25 Sec. 11.271. PUBLIC EDUCATION DEVELOPMENT FUND. (a) The
 26 public education development fund is an account in the General

1 Revenue Fund. The comptroller of public accounts may receive gifts
2 and grants for the public education development fund.

3 (b) Funds that may be credited to the public education
4 development fund include gifts, grants, and legislative
5 appropriations.

6 (c) The State Board of Education shall administer the public
7 education development fund.

8 (d) Each fiscal year, the board, after deducting the cost of
9 administration not to exceed an amount set by appropriation, shall
10 make disbursements from the public education development fund to
11 the Educational Economic Policy Center in a total amount approved
12 by the Legislative Education Board. The board shall disburse the
13 remainder of the fund to eligible school campuses.

14 (e) To be eligible for a disbursement from the public
15 education development fund under this section, a school campus must
16 have an approved innovative program application under Section 11.27
17 of this code. A campus may use funds received under this section
18 for the approved innovative program only.

19 (f) A gift or grant to the public education development fund
20 that provides the terms of its disbursement may be distributed only
21 as specifically provided by the terms of the gift or grant.

22 (g) Seventy percent of the funds disbursed under this
23 section must be for projects designed to improve the academic
24 achievement of low-performing students. Priority shall be given to
25 projects submitted by campuses that have 60 percent or fewer
26 students who perform satisfactorily on the criterion-referenced

1 assessment instrument required under Section 21.551 of this code or
2 that are otherwise low-performing campuses as defined by rule of
3 the State Board of Education.

4 (h) From funds appropriated for the public education
5 development fund, the comptroller shall issue warrants to the
6 Educational Economic Policy Center and to each eligible school
7 campus's school district in the amount certified by the board to
8 the comptroller.

9 (i) The Educational Economic Policy Committee shall appoint
10 a program advisory committee, composed of experts in policy
11 research and disciplines that represent the center's purposes, to
12 make recommendations to the State Board of Education and the
13 Legislative Education Board on the use of the public education
14 development fund.

15 SECTION 3.04. Subsection (c), Section 12.01, Education Code,
16 is amended to read as follows:

17 (c) Except as otherwise specifically defined in this
18 chapter, "textbooks" or "books" as used herein shall mean books,
19 systems of instructional materials, or combinations of books and
20 supplementary instructional materials which convey information to
21 the pupil or otherwise contribute to the learning process, computer
22 software, including but not limited to applications using computer
23 assisted instruction, interactive videodisc, other computer
24 courseware, and magnetic media [provided--that--these--can--be
25 delivered-in-lieu-of-textbooks-with-similar-costs-to-the-state].

26 SECTION 3.05. Section 13.352, Education Code, is amended by

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1 amending Subsection (d) and adding Subsection (f) to read as
2 follows:

3 (d) Each principal shall:

4 (1) approve all teacher and staff appointments
5 [participate--in--the--selection--of--teachers] for that principal's
6 campus from a pool of applicants selected by the district or of
7 applicants who meet the hiring requirements established by the
8 district, based on criteria developed by the principal after
9 informal consultation with the faculty;

10 (2) set specific education objectives for his campus,
11 involving staff in the planning process;

12 (3) develop budgets for his campus; [and]

13 (4) work with school professionals to prepare
14 individual development plans; and

15 (5) attend in-service training relating to making
16 district-level decisions provided under Section 13.049(b) of this
17 code.

18 (f) The board of trustees of a school district shall adopt a
19 policy for the selection of a campus principal that includes
20 qualifications required for that position.

21 SECTION 3.06. Section 13.354, Education Code, is amended by
22 adding Subsection (e) to read as follows:

23 (e) The appraisal of a principal shall include the
24 performance of the principal's campus on the indicators established
25 in Section 21.7531 of this code and the campus's objectives set
26 under Section 21.7532 of this code, including performance gains of

1 amount provided by appropriation;

2 (2) \$35 for the 1993-1994 school year, or a greater
3 amount provided by appropriation;

4 (3) \$40 for the 1994-1995 school year, or a greater
5 amount provided by appropriation;

6 (4) \$45 for the 1995-1996 school year, or a greater
7 amount provided by appropriation; and

8 (5) \$50 for the 1996-1997 school year and for each
9 school year thereafter, or a greater amount provided by
10 appropriation.

11 (c) The cost of the technology allotment is shared by the
12 state and district in the same percentages as the district's
13 Foundation School Program under Chapter 16 of this code. The
14 state's share is paid from the technology fund.

15 (d) The State Board of Education shall establish rules for
16 the administration of this section. The rules shall provide that
17 the equipment purchased shall meet the standards established under
18 this chapter.

19 (e) If an insufficient amount is available in the fund for
20 the state's share of the allotments under Subsection (b) of this
21 section, the agency shall reduce each district's allotment by
22 application of the formula adopted under Section 16.254(d) of this
23 code.

24 Sec. 14.064. USE OF ALLOTMENT. (a) A district's allotment
25 under Section 14.063 of this code may be used only for:

26 (1) the acquisition of technological equipment and

1 related services, including hardware, software, courseware,
2 training, subscription fees for telecommunications and data base
3 services, and other related services for the purposes of this
4 subchapter; and

5 (2) the research and development of emerging
6 instructional technology.

7 (b) The Central Education Agency shall monitor the use of
8 each district's allotment to ensure that at least 75 percent of the
9 allotment is used to provide classroom instructional services and
10 programs.

11 Sec. 14.065. TECHNOLOGY PLAN. To be eligible for an
12 allotment under this chapter, a school district shall file with the
13 Central Education Agency and with the Department of Information
14 Resources a five-year plan for the use of a technology allotment.
15 Each year the district uses a technology allotment, the district
16 shall report to the agency how the use of the allotment relates to
17 the training of the district's personnel using the technology and
18 to the five-year plan or to a proposed plan to train personnel.

19 SECTION 3.06. Section 16.003, Education Code, is amended to
20 read as follows:

21 Sec. 16.003. STUDENT ELIGIBILITY. (a) A student is
22 entitled to the benefits of the Foundation School Program if he is
23 5 years of age or older and under 21 years of age at the beginning
24 of the scholastic year and has not graduated from high school.

25 (b) A student to whom Subsection (a) of this section does
26 not apply is entitled to the benefits of the Foundation School

1 Program if the student is enrolled in a prekindergarten class under
2 Section 21.136 of this code.

3 (c) The commissioner of education, in consultation with the
4 Commissioner of Human Services, shall monitor and evaluate
5 prekindergarten programs in the State of Texas as to their
6 developmental appropriateness. Furthermore, the commissioner of
7 education, in consultation with the Commissioner of Human Services,
8 shall evaluate the potential for coordination on a statewide basis
9 of prekindergarten programs with government-funded early childhood
10 care and education programs such as child care administered under
11 Chapter 44 of the Human Resources Code and federal Head Start
12 programs. This evaluation shall utilize recommendations contained
13 in the report to the 71st Legislature required by Chapter 717, Acts
14 of the 70th Legislature, Regular Session, 1987. For the purpose of
15 providing cost-effective care for children during the full work day
16 with developmentally appropriate curriculum, the commissioners
17 shall investigate the use of existing child care program sites as
18 prekindergarten sites.

19 (d) A child may be enrolled in the first grade if he is at
20 least six years of age at the beginning of the scholastic year or
21 has been enrolled in the first grade or has completed kindergarten
22 in the public schools in another state prior to transferring to a
23 Texas public school.

24 SECTION 3.09. Section 16.007, Education Code, is amended to
25 read as follows:

26 Sec. 16.007. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM

1 (PEIMS). (a) Each school district shall participate in the Public
2 Education Information Management System (PEIMS) and shall provide
3 through that system information required for the administration of
4 this chapter and of other appropriate provisions of this code.

5 (b) Each school district shall use a uniform accounting
6 system adopted by the commissioner of education for the data
7 required to be reported for the Public Education Information
8 Management System.

9 SECTION 3.10. Section 16.056, Education Code, is amended by
10 adding Subsection (h) to read as follows:

11 (h) In determining the placement of a teacher on the salary
12 schedule under Subsection (c) of this section, a district shall
13 credit the teacher for each year of experience, whether or not the
14 years are consecutive. Notwithstanding the provision of this
15 subsection, no teacher shall be placed on the salary schedule at a
16 step above the step where the teacher would have been placed had
17 that teacher remained in continuous service.

18 SECTION 3.11. Subsection (a), Section 21.031, Education
19 Code, is amended to read as follows:

20 (a) All children who are citizens of the United States or
21 legally admitted aliens and who are [ever-the-age-of] five years of
22 age or older and under the age of 21 years on the first day of
23 September of any scholastic year shall be entitled to the benefits
24 of the Available School Fund for that year. All other children
25 enrolled in a prekindergarten class under Section 21.136 of this
26 code are entitled to the benefits of the Available School Fund.

1 SECTION 3.12. Subsection (a), Section 21.033, Education
2 Code, is amended to read as follows:

3 (a) The following classes of children are exempt from the
4 requirements of compulsory attendance:

5 (1) any child in attendance upon a private or
6 parochial school which shall include in its course a study of good
7 citizenship;

8 (2) any child who is handicapped as defined in Section
9 21.503 of this code and who cannot be appropriately served by the
10 resident district in accordance with the requirements of Section
11 21.032 of this code;

12 (3) any child who has a physical or mental condition
13 of a temporary and remediable nature which renders such child's
14 attendance infeasible and who holds a certificate from a qualified
15 physician specifying the temporary condition, indicating the
16 treatment prescribed to remedy the temporary condition, and
17 covering the anticipated period of the child's absence from school
18 for the purpose of receiving and recuperating from such remedial
19 treatment; [and]

20 (4) any child expelled in accordance with the
21 requirements of law;

22 (5) any child who is at least 17 years old and in
23 attendance upon a course of instruction to prepare for the high
24 school equivalency examinations; and

25 (6) any child who is at least 16 years old and in
26 attendance upon a course of instruction to prepare for the high

1 school equivalency examinations provided that the person is
2 recommended to the course of instruction by a public agency which
3 has supervision or custody of the person under a court order.

4 SECTION 3.13. Section 21.136, Education Code, is amended to
5 read as follows:

6 Sec. 21.136. PREKINDERGARTEN. (a) Any school district may
7 offer prekindergarten classes, but a district shall offer
8 prekindergarten classes if the district identifies 15 or more
9 eligible children who are at least four years of age. To receive
10 state funds for children three years of age, the board of trustees
11 of a district may submit an application for the funds to the
12 commissioner of education. Subject to the availability of
13 appropriated funds, the commissioner shall approve the application
14 if there are 15 or more eligible three-year-old children in the
15 district.

16 (b) To be eligible for enrollment in a prekindergarten class
17 a child must be at least three [four] years of age and must be:

18 (1) unable to speak and comprehend the English
19 language; or

20 (2) from a family whose income, according to standards
21 set by the State Board of Education, is at or below subsistence
22 level.

23 (c) Prekindergarten classes shall be operated on a half-day
24 basis. A district is not required to provide transportation for
25 prekindergarten classes, but transportation, if provided, is
26 included for funding purposes as part of the regular transportation

1 system.

2 (d) On application of a school district, the commissioner of
3 education may exempt a district from the application of this
4 section if the district would be required to construct classroom
5 facilities in order to provide prekindergarten classes.

6 (e) For the [1989-1990-and] 1990-1991 school year [years]
7 the cost of the program is shared by the state and district in the
8 same percentages used to determine the state/local shares under
9 Chapter 16 of this code. The state's share is paid from the
10 foundation school fund and may not exceed \$55 million a year. If
11 that amount will not fully fund the program, the commissioner shall
12 proportionately reduce each district's allocations.

13 (f) Each school district shall develop a system to notify
14 the population in the district with children who are eligible for
15 enrollment in a prekindergarten class of the availability of the
16 class. The system must include public notices issued in English
17 and Spanish.

18 (g) [f]. A district's prekindergarten program shall be
19 designed to develop skills necessary for success in the regular
20 public school curriculum, including language, mathematics, and
21 social skills.

22 SECTION 3.14. Subsection (b), Section 21.205, Education
23 Code, is amended to read as follows:

24 (b) The hearing shall be conducted in accordance with rules
25 promulgated by the district. The board of trustees may designate a
26 person to serve as an impartial hearing officer to develop a record

1 for consideration by the board. The board shall make its decision
2 based on a review of the record developed by the impartial hearing
3 officer and on oral argument before the board of the teacher or the
4 teacher's representative and the district's representative.

5 SECTION 3.15. (a) Subchapter Z, Chapter 21, Education Code,
6 is amended by adding Section 21.9012 to read as follows:

7 Sec. 21.9012. ENERGY CONSERVATION MEASURES. (a) The board
8 of trustees of a school district may enter into a contract for
9 energy conservation measures to reduce energy consumption or
10 operating costs of school facilities in accordance with this
11 section.

12 (b) A contract to which this section applies includes a
13 contract for the installation of:

14 (1) insulation of the building structure and systems
15 within the building;

16 (2) storm windows or doors, caulking or
17 weatherstripping, multiglazed windows or doors, heat absorbing or
18 heat reflective glazed and coated window or door systems, or other
19 window or door system modifications that reduce energy consumption;

20 (3) automatic energy control systems, including
21 computer software and technical data licenses;

22 (4) heating, ventilating, or air-conditioning system
23 modifications or replacements;

24 (5) lighting fixtures that increase energy efficiency

25 or

26 (6) energy recovery systems.

1 (c) The person with whom the board contracts must be
2 experienced in the design, implementation, and installation of
3 energy conservation measures.

4 (d) Before entering into a contract for energy conservation
5 measures, the board shall require the provider of the energy
6 conservation measures to file with the board a performance bond
7 that is in an amount the board finds reasonable and necessary to
8 protect the interests of the school district and that covers the
9 value of the guaranteed savings on the contract and is conditioned
10 on the faithful execution of the terms of the contract.

11 (e) The board may enter into a contract for a period of more
12 than one year for energy conservation measures with a person if the
13 board finds that the amount the school district would spend on the
14 energy conservation measures will not exceed the amount to be saved
15 in energy and operating costs over 10 years from the date of
16 installation. If the term of a contract for energy conservation
17 measures exceeds one year, the district's contractual obligation in
18 any year during the term of the contract may not exceed the total
19 energy and operating cost savings, including but not limited to
20 electrical, gas, or other utility cost savings and operating cost
21 savings resulting from automatic monitoring and control, as
22 determined by the board in this subsection, divided by the number
23 of years in the contract term. The board shall consider all costs
24 of the energy conservation measures, including costs of design,
25 engineering, installation, maintenance, repairs, and debt service.

26 (f) A contract for energy conservation measures, with

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1 respect to existing buildings or facilities, may be a
2 lease/purchase contract, with a term not to exceed 10 years, that
3 meets federal tax requirements for tax-free municipal leasing or
4 long-term financing.

5 -(g) A contract under this section may be let under
6 competitive proposal procedures. Notice of the request for
7 proposals shall be published in the manner provided for competitive
8 bidding. Requests for proposals must solicit quotations and must
9 specify the relative importance of guaranteed savings, price,
10 financial performance and stability, quality, technical ability,
11 experience, and other evaluation factors. The contract shall be
12 awarded to the responsible offeror whose proposal, following
13 negotiations, is determined to be the most advantageous to the
14 school district considering the guaranteed savings and other
15 evaluation factors set forth in the request for proposals.

16 (h) In accordance with the terms of a request for proposals
17 under Subsection (g) of this section and with regulations adopted
18 by the board of trustees, the school district may conduct
19 discussions with offerors who submit proposals and who are
20 determined to be reasonably qualified for the award of the
21 contract. Offerors shall be treated fairly and equally with
22 respect to any opportunity for discussion and revision of
23 proposals. To obtain the best final offers, the school district
24 may allow proposal revisions after submissions and before the award
25 of the contract.

26 (i) If provided in a request for proposals under Subsection

1 (g) of this section, proposals shall be opened in a manner that
2 avoids disclosure of the contents to competing offerors and keeps
3 the proposals secret during negotiations.

4 (j) Upon completion of all negotiations, the board shall
5 give notice of intent to award a contract to the selected offeror.
6 The notice of intent shall be published in the same manner as the
7 notice of request for proposals. All proposals are open for public
8 inspection after the notice of intent to award is published, but
9 trade secrets and proprietary information clearly identified in the
10 proposals are not open for public inspection.

11 (b) Section 21.9012, Education Code, as added by this
12 section, takes effect September 1, 1990, and applies to a contract
13 for energy conservation measures entered on or after that date.

14 SECTION 3.16. Section 23.023, Education Code, is amended by
15 amending Subsections (a), (b), (c), (e), (h), (i), and (k) and by
16 adding Subsection (m) to read as follows:

17 (a) Any independent school district, whether created by
18 special or general law, with 64,000 [66,000] or more students in
19 average daily attendance [for--the--1975-1976--school--year--or
20 thereafter] shall be under the management and control of a board of
21 nine trustees elected in accordance with the provisions of this
22 section.

23 (b) Seven [At-all-elections-held-after--December--31,--1977,
24 seven] members of the board of trustees shall be elected by the
25 qualified voters of single-member districts and two members, who
26 shall be the president and vice-president of the board, shall be

1 elected at large.

2 (c) At least 120 days before the first school board election
3 at which a district elects trustees under this section [to-be-held
4 in--April--1978], the board shall divide the school district into
5 seven trustee districts which are compact, contiguous, and contain
6 as nearly as practicable an equal population according to the last
7 preceding federal decennial census.

8 (e) The candidate receiving a majority of the votes cast in
9 each position is elected. If no candidate receives a majority of
10 the votes cast for that position, the board shall order a runoff to
11 be held on a date authorized by Section 2.025, Election Code [the
12 third--Saturday-in-April-immediately-following-the-first-election],
13 and only the names of the two candidates receiving the highest
14 number of votes in the first election shall be listed on the
15 ballot. The candidate receiving the majority of the votes cast in
16 the runoff election is elected.

17 (h) In districts with seven board members on the date the
18 district becomes subject to this section [January-1, 1978], members
19 of the board serving on that date shall serve for the remainder of
20 their terms, except those choosing to resign. At the first
21 election at which a district first elects trustees under this
22 section [held--in--April--1978], six [four] members shall be
23 elected--the president, vice-president, and four [two] regular
24 members. The president and vice-president then elected shall serve
25 for a term of two years. The other [two] members then elected
26 shall [draw-lots-so-that-one-will-serve-for-a-term--of--two--years,

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1 and--one--will] serve for a term of four years. The [five] members
2 of the board holding the offices for which there was no election
3 shall draw lots to determine which trustee district they will
4 represent during the remainder of their terms. Thereafter, all
5 members shall be elected to staggered terms of four years.

6 (i) A school district having 64,000 [66,000] or more
7 students in average daily attendance [for-the-1975-1976-school-year
8 or-thereafter] which has previously adopted single-member district
9 representation may continue to operate under that plan.

10 (k) A school district with less than 64,000 [66,000]
11 students in average daily attendance for the 1975-1976 school year
12 that later becomes subject to this section shall begin electing
13 trustees from single-member districts in accordance with this
14 section no later than the first regular election held in
15 [following] the next calendar year or subsequent year [in-which-the
16 federal-census-is--taken]. A school district subject to this
17 section whose average daily attendance drops below 64,000 [66,000]
18 students shall continue to be governed by this section. This
19 section does not apply to a district which has adopted a plan of
20 electing a board of trustees in whole or in part from single-member
21 districts prior to August 31, 1991.

22 (m) For the purposes of this section, average daily
23 attendance is defined as the number of students enrolled and in
24 attendance on average during the last 10 school days of September
25 in each school year.

26 SECTION 3.17. Section 23.30, Education Code, is amended by

1 adding Subsection (e) to read as follows:

2 (e) A school district may employ, retain, contract with, or
3 compensate a licensed real estate broker or salesman for assistance
4 in the acquisition or sale of real property.

5 - SECTION 3.18. Subchapter 2, Chapter 212, Local Government
6 Code, is amended by adding Section 212.902 to read as follows:

7 Sec. 212.902. SCHOOL DISTRICT LAND DEVELOPMENT STANDARDS.

8 (a) This section applies to agreements between school districts
9 and any municipality which has annexed territory for limited
10 purposes.

11 (b) On request by a school district, a municipality shall
12 enter an agreement with the board of trustees of the school
13 district to establish review fees, review periods, and land
14 development standards ordinances and to provide alternative water
15 pollution control methodologies for school buildings constructed by
16 the school district. The agreement shall include a provision
17 exempting the district from all land development ordinances in
18 cases where the district is adding temporary classroom buildings on
19 an existing school campus.

20 (c) If the municipality and the school district do not reach
21 an agreement on or before the 120th day after the date on which the
22 municipality receives the district's request for an agreement,
23 proposed agreements by the school district and the municipality
24 shall be submitted to an independent arbitrator appointed by the
25 presiding district judge whose jurisdiction includes the school
26 district. The arbitrator shall, after a hearing at which both the

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1 school district and municipality make presentations on their
2 proposed agreements, prepare an agreement resolving any differences
3 between the proposals. The agreement prepared by the arbitrator
4 will be final and binding upon both the school district and the
5 municipality. The cost of the arbitration proceeding shall be
6 borne equally by the school district and the municipality.

7 (d) A school district that requests an agreement under this
8 section, at the time it makes the request, shall send a copy of the
9 request to the commissioner of education. At the end of the
10 120-day period, the requesting district shall report to the
11 commissioner the status or result of negotiations with the
12 municipality. A municipality may send a separate status report to
13 the commissioner. The district shall send to the commissioner a
14 copy of each agreement between the district and a municipality
15 under this section.

16 (e) In this section, "land development standards" includes
17 impervious cover limitations, building setbacks, floor to area
18 ratios, building coverage, water quality controls, landscaping,
19 development setbacks, compatibility standards, traffic analyses,
20 and driveway cuts, if applicable.

21 (f) Nothing in this section shall be construed to limit the
22 applicability of or waive fees for fire, safety, health, or
23 building code ordinances of the municipality prior to or during
24 construction of school buildings, nor shall any agreement waive any
25 fee or modify any ordinance of a municipality for an
26 administration, service, or athletic facility proposed for

1 construction by a school district.

2 SECTION 3.19. (a) Each fiscal year before the end of the
3 Center for Educational Technology's first three years of operation,
4 the State Board of Education shall make disbursements from the
5 public education development fund under Section 11.271, Education
6 Code, as added by this Act, to the Center for Educational
7 Technology in an amount approved by the Legislative Education Board
8 before making disbursements to eligible school campuses.

9 (b) From funds appropriated for the fund, the comptroller of
10 public accounts shall issue warrants to the center in the amount
11 certified by the commissioner of education.

12 SECTION 3.20. The legislature recommends that the governor,
13 lieutenant governor, and speaker of the house of representatives
14 appoint a special study committee to develop a plan for the
15 coordination of youth services into a community effort and to
16 remove nonacademic-related problems of youth from school
17 responsibility and that the committee be required to make
18 preliminary recommendations to the legislature before January 1,
19 1991.

20 SECTION 3.21. The commissioner of education, in consultation
21 with the Commissioner of Human Services, shall submit a report to
22 the 72nd Legislature, with specific legislative recommendations on
23 the developmental appropriateness of prekindergarten programs, the
24 potential for using existing child care program sites as
25 prekindergarten sites, and the coordination of those programs under
26 Subsection (c), Section 16.003, Education Code, as added by this

1 Act.

2 SECTION 3.22. The Teacher Retirement System of Texas, the
3 commissioner of education, and the State Board of Education shall
4 jointly develop a recommendation for a state health insurance plan
5 for public school employees. The retirement system, commissioner,
6 and board shall report the recommendations to the 72nd Legislature
7 not later than February 1, 1991.

8 SECTION 3.23. Notwithstanding any provision to the contrary:

9 (1) the pilot program established under Section 2.14,
10 Chapter 813, and Section 2, Chapter 1179, Acts of the 71st
11 Legislature, Regular Session, 1989, shall continue through the
12 1990-1991 school year only; and

13 (2) the Central Education Agency shall report the
14 findings of the study under Subsection (e) of those sections to the
15 73rd Legislature not later than February 1, 1993.

16 SECTION 3.24. (a) Sections 3.08, 3.11, and 3.13 of this
17 article apply beginning with the 1991-1992 school year. The prior
18 law applies for the 1990-1991 school year and is continued in
19 effect for that purpose.

20 (b) Section 3.07 of this article takes effect September 1,
21 1992.

22 ARTICLE IV. PERFORMANCE INCENTIVES

23 SECTION 4.01. Subchapter B, Chapter 11, Education Code, is
24 amended by adding Sections 11.272 and 11.273 to read as follows:

25 Sec. 11.272. EXCELLENCE EXEMPTIONS. (a) Except as provided
26 by Subsection (b) of this section, a school campus or district that

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1 is rated exemplary under Section 21.753 of this code is exempt from
2 requirements and prohibitions imposed under this code, including
3 rules adopted under this code.

4 (b) A school campus or district is not exempt under this
5 section from a prohibition on conduct that constitutes a criminal
6 offense. A school campus or district is not exempt under this
7 section from requirements imposed by federal law or rule, including
8 requirements for special education or bilingual education programs.
9 Except as provided by Subsection (e) of this section, a school
10 campus or district is not exempt under this section from a
11 requirement or prohibition imposed by state law or rule relating
12 to:

13 (1) curriculum essential elements, excluding the
14 methodology used by a teacher and the time spent by a teacher or a
15 student on a particular task or subject;

16 (2) restrictions on extracurricular activities;

17 (3) health and safety;

18 (4) competitive bidding;

19 (5) textbook selection;

20 (6) elementary school class size limits;

21 (7) removal of a disruptive student from the
22 classroom;

23 (8) suspension or expulsion of a student;

24 (9) at risk programs;

25 (10) prekindergarten programs;

26 (11) minimum graduation requirements; or

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1 (12) educational employee and educational support
2 employee rights and benefits. In this section, "educational
3 support employee" means a full-time or part-time school employee
4 not defined as a "teacher" by Section 21.201(1) of this code.

5 (c) The Central Education Agency shall monitor and evaluate
6 deregulation of a school campus or district under this section and
7 Section 11.273 of this code and report annually on the effect of
8 deregulation on student achievement to the State Board of
9 Education, the Legislative Education Board, the governor, the
10 lieutenant governor, the speaker of the house of representatives,
11 and the legislature. The report must include a list of the
12 exemptions utilized and a review of the effectiveness of the
13 waivers and exemptions programs.

14 (d) The State Board of Education in considering exemptions
15 or waivers shall provide as much regulatory relief as is practical
16 and reasonable to campuses or districts that are considered high
17 performing, beginning in the 1990-1991 school year.

18 (e) The commissioner may exempt an exemplary school campus
19 from elementary class size limits under this section if the school
20 campus submits to the commissioner a written plan showing steps
21 that will be taken to ensure that the exemption from the class size
22 limits will not be harmful to the academic achievement of the
23 students on the school campus. The commissioner shall review
24 achievement levels annually. The exemption remains in effect until
25 the commissioner determines that achievement levels of the campus
26 have declined.

1 Sec. 11.273. WAIVERS AND EXEMPTIONS. (a) Except as
2 provided under Subsection (e) of this section, a school campus or
3 district may apply to the State Board of Education for a waiver of
4 a requirement or prohibition imposed by law or rule that the campus
5 or district determines inhibits student achievement.

6 (b) An application under this section must include a written
7 plan developed by the campus principal or district superintendent,
8 as appropriate, and faculty of the campus or district that states
9 the achievement objectives of the campus or district and the
10 inhibition imposed on those objectives by the requirement or
11 prohibition and shall be approved by the district's board of
12 trustees.

13 (c) The board may grant a waiver under this section for a
14 period not to exceed three years. A prohibition on conduct that
15 constitutes a criminal offense may not be waived.

16 (d) A school campus or district for which a requirement or
17 prohibition is waived under this section for a period of three
18 years may receive an exemption from the requirement or prohibition
19 at the end of that period if the campus or district has fulfilled
20 the achievement objectives submitted to the board under Subsection
21 (b) of this section. The exemption remains in effect until the
22 board determines that achievement levels of the campus or district
23 have declined.

24 (e) A school campus or district may not receive an exemption
25 or waiver under this section from requirements imposed by federal
26 law or rule, including requirements for special education or

1 bilingual education programs. A school campus or district may not
2 receive an exemption or waiver under this section from a
3 requirement or prohibition imposed by state law or rule relating
4 to:

5 (1) curriculum essential elements, excluding the
6 methodology used by a teacher and the time spent by a teacher or a
7 student on a particular task or subject;

8 (2) restrictions on extracurricular activities;

9 (3) health and safety;

10 (4) competitive bidding;

11 (5) elementary school class size limits;

12 (6) minimum graduation requirements;

13 (7) removal of a disruptive student from the
14 classroom;

15 (8) suspension or expulsion of a student;

16 (9) at risk programs;

17 (10) prekindergarten programs;

18 (11) educational employee and educational support
19 employee rights and benefits. In this section, "educational
20 support employee" means a full-time or part-time school employee
21 not defined as a "teacher" by Section 21.201(1) of this code; or

22 (12) special education or bilingual education
23 programs.

24 (f) A school district or campus that receives a waiver under
25 this section for textbook selection may select for purchase a
26 textbook not on a state-adopted multiple list. The textbook shall

1 be purchased by the district and shall be used for the same number
2 of years for which the textbooks for the subject or course are
3 adopted by the State Board of Education. The unit cost of the
4 textbooks selected shall not exceed the unit cost of the costliest
5 textbook on the multiple list for the subject or course. The
6 commissioner of education shall calculate the allowable cost and
7 transmit from the state textbook fund that amount to the district
8 for purchase of the textbooks. The State Board of Education shall
9 adopt rules necessary for the implementation of this subsection.

10 (g) The State Board of Education in considering exemptions
11 or waivers shall provide as much regulatory relief as is practical
12 and reasonable to campuses or districts that are considered high
13 performing, beginning in the 1990-1991 school year.

14 SECTION 4.02. Section 21.101, Education Code, is amended by
15 adding Subsection (h) to read as follows:

16 (h) The State Board of Education shall adopt rules for the
17 implementation of this section, except that the board may not
18 designate the methodology used by a teacher nor the time spent by
19 the teacher or a student on a particular task or subject.

20 SECTION 4.03. Subchapter D, Chapter 21, Education Code, is
21 amended by adding Section 21.116 to read as follows:

22 Sec. 21.116. POSTSECONDARY ENROLLMENT OPTIONS. The
23 commissioner of education and the commissioner of higher education
24 shall jointly develop recommendations for a statewide program
25 allowing public high school students to enroll in courses in
26 postsecondary institutions for both secondary credit and

1 postsecondary credit. The recommendations shall include a method
2 for apportioning state funds for the student's education between
3 the public school and the postsecondary institution. The
4 commissioners shall report their recommendations to the 72nd
5 Legislature not later than February 1, 1991.

6 SECTION 4.04. Subsection (b), Section 34.004, Education
7 Code, is amended to read as follows:

8 (b) The State Board of Education with the advice and
9 approval of the educational excellence committee shall establish
10 the criteria and standards for the awards. The awards for school
11 campuses shall be based primarily on the indicators established
12 under Section 21.7531 of this code and the campus objectives
13 established under Section 21.7532 of this code. The board shall
14 incorporate criteria for the performance of students in special
15 education programs. The criteria for schools and school districts
16 must be measurable criteria and may include criteria related to:

- 17 (1) student achievement;
18 (2) operational efficiency;
19 (3) central administrative support;
20 (4) student and teacher attendance;
21 (5) graduates who enter college, receive advanced
22 training, or are employed;
23 (6) principals participating in instructional
24 leadership training; and
25 (7) other matters selected by the committee that are
26 related to scholastic gainr.

1 SECTION 4.05. Chapter 56, Education Code, is amended by
2 adding Subchapter G to read as follows:

3 SUBCHAPTER G. TEXAS TUITION ASSISTANCE GRANT PROGRAM

4 Sec. 56.101. PROGRAM NAME. The student financial assistance
5 program authorized by this subchapter is known as the Texas tuition
6 assistance grant program, and an individual grant awarded under
7 this subchapter is known as a Texas tuition assistance grant.

8 Sec. 56.102. PURPOSE. The purpose of this subchapter is to
9 provide an eligible person a grant of money for tuition to enable
10 that person to attend an institution of higher education.

11 Sec. 56.103. ELIGIBLE PERSON. (a) To be eligible for a
12 Texas tuition assistance grant, a person must:

13 (1) be a Texas resident as defined by coordinating
14 board rules;

15 (2) enroll for a full course load in an institution of
16 higher education as defined by Section 61.003 or 61.222 of this
17 code;

18 (3) be from a low-income or middle-income family and
19 establish financial need as defined by coordinating board rules;

20 (4) within the two years preceding the person's grant
21 application, have graduated from a secondary school with a
22 cumulative grade average that is equal to or greater than the
23 equivalent of 80 on a scale of 100;

24 (5) have applied for any available financial
25 assistance; and

26 (6) have complied with any other requirements adopted

1 by the coordinating board under this subchapter.

2 (b) A person is not eligible to receive a Texas tuition
3 assistance grant if the person:

4 (1) has been granted a baccalaureate degree; or

5 (2) has been convicted of a felony or a crime
6 involving moral turpitude, unless the person has met the
7 eligibility requirements under Subsection (a) of this section and
8 has:

9 (A) received a certificate of discharge by the
10 Texas Department of Criminal Justice or a correctional facility or
11 completed a period of probation ordered by a court, and at least
12 two years have elapsed from the date of the receipt or completion;
13 or

14 (B) been pardoned or otherwise released from the
15 resulting ineligibility to participate in the Texas tuition
16 assistance grant program.

17 Sec. 56.104. ADMINISTRATIVE AUTHORITY. The coordinating
18 board shall provide a Texas tuition assistance grant to an eligible
19 person enrolled in an institution of higher education based on the
20 financial need of that person. The total amount of Texas tuition
21 assistance grants distributed by the coordinating board may not
22 exceed the amount appropriated for the Texas tuition assistance
23 grant program.

24 Sec. 56.105. PAYMENT OF GRANT; AMOUNT. (a) On receipt of a
25 person's Texas tuition assistance grant application, an enrollment
26 report from the institution of higher education enrolling the

1 person, and a certification of the amount of financial need from
2 the institution of higher education, the coordinating board shall
3 distribute the amount of the grant for the person to the
4 institution of higher education.

5 (b) The amount of a Texas tuition assistance grant may not
6 exceed the amount of tuition the student would be charged at a
7 public senior institution of higher education and, when added to
8 other gift aid, may not exceed the financial need of the student.

9 Sec. 56.106. LIMITATIONS ON GRANT. A person entitled to a
10 Texas tuition assistance grant loses that person's right to future
11 payments of money from the grant program if the person:

12 (1) make steady academic progress toward a
13 baccalaureate degree determined under coordinating board rules;

14 (2) does not maintain full-time enrollment standing
15 for at least two semesters in any academic year;

16 (3) has a grade average that is in the lower 50
17 percent of the total grade averages of all full-time students
18 enrolled in the same college or other department in the institution
19 of higher education; or

20 (4) is convicted of a felony or a crime involving
21 moral turpitude, unless the person has met eligibility requirements
22 as defined in Section 56.103(a) of this code and has:

23 (A) received a certificate of discharge by the
24 Texas Department of Criminal Justice or a correctional facility or
25 has completed a period of probation ordered by a court, and at
26 least two years have elapsed from the date of the receipt or

1 completion; or

2 (B) been pardoned or otherwise released from the
3 resulting ineligibility to participate in the Texas tuition
4 assistance grant program.

5 Sec. 56.107. ADOPTION AND DISTRIBUTION OF RULES. (a) The
6 coordinating board shall adopt rules to administer this subchapter.

7 (b) The coordinating board shall distribute to each
8 institution of higher education and to each school district copies
9 of all rules adopted under this subchapter.

10 Sec. 56.108. FUNDING. (a) The coordinating board may
11 accept gifts and grants from any public or private source for the
12 purposes of this subchapter.

13 (b) Texas tuition assistance grants are payable from gifts,
14 grants, and funds appropriated by the legislature.

15 SECTION 4.06. The Texas Higher Education Coordinating Board
16 shall adopt and distribute initial rules required by Subchapter G,
17 Chapter 56, Education Code, as added by this Act, not later than
18 January 1, 1991. The coordinating board shall make grants to
19 eligible persons under this Act beginning with the fall semester
20 1991.

21 SECTION 4.07. The following provisions of the Education Code
22 are repealed:

23 (1) Section 11.27, as added by Section 2.03, Chapter
24 813, Acts of the 71st Legislature, Regular Session, 1989;

25 (2) Subsection (b), Section 21.001; and

26 (3) Subchapter B, Chapter 56.

ARTICLE V. YEAR-ROUND SCHOOLS

SECTION 5.01. Subsection (a), Section 21.008, Education Code, is amended to read as follows:

(a) Each school district shall operate for either two or three semesters during each school year, at the option of the district, except as provided under Section 21.010 of this code or under rules adopted under Section 21.009 of this code. The semesters must provide the required number of days of instruction for students and inservice education and preparation for teachers[~~except as provided under Section 16.952(b) of this code~~].

SECTION 5.02. Subsection (a), Section 21.009, Education Code, is amended to read as follows:

(a) The State Board of Education shall [may] adopt rules under which a school district may operate its schools year-round, including rules necessary for the operation of a multitrack school year under Section 21.010 of this code.

SECTION 5.03. Subchapter A, Chapter 21, Education Code, is amended by adding Section 21.010 to read as follows:

Sec. 21.010. MULTITRACK SCHOOL YEAR. (a) In this section:

(1) "Track" means a group of students and teachers scheduled to attend school and take vacation periods on the same schedule.

(2) "Multitrack" means multiple tracks, with staggered instructional blocks and vacation periods.

(b) The board of trustees of a school district may operate a school on a multitrack school year.

1 SECTION 5.04. The State Board of Education shall adopt rules
2 under Subsection (a), Section 21.009, Education Code, as amended by
3 this Act, not later than January 1, 1991.

4 ARTICLE VI. SEVERABILITY; EFFECTIVE DATE; EMERGENCY

5 SECTION 6.01. If any provision of this Act or its
6 application to any person or circumstance is held invalid, the
7 invalidity does not affect other provisions or applications of this
8 Act that can be given effect without the invalid provision or
9 application, and to this end the provisions of this Act are
10 declared to be severable.

11 SECTION 6.02. This Act takes effect September 1, 1990,
12 except as otherwise provided by this Act.

13 SECTION 6.03. The importance of this legislation and the
14 crowded condition of the calendars in both houses create an
15 emergency and an imperative public necessity that the
16 constitutional rule requiring bills to be read on three several
17 days in each house be suspended, and this rule is hereby suspended,
18 and that this Act take effect and be in force according to its
19 terms, and it is so enacted.

S.B. No. 1

Carl W. Palmer *Gib Lewis*
President of the Senate Speaker of the House

ACTIN 6

I hereby certify that S.B. No. 1 passed the Senate on June 5, 1990, by the following vote: Yeas 29, Nays 1.

Debbie Ding
Secretary of the Senate

I hereby certify that S.B. No. 1 passed the House on June 6, 1990, by the following vote: Yeas 136, Nays 12.

Don Mancini
Chief Clerk of the House

Approved:

6-7-90
Date

H. P. Clement
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

4:15 pm

JUN 07 1990

James S. Baynes
Secretary of State

EDGEWOOD INDEPENDENT SCHOOL
DISTRICT, ET AL.

VS.

WILLIAM N. KIRBY, TEXAS
COMMISSIONER OF EDUCATION,
ET AL.

§ IN THE DISTRICT COURT
§
§
§ TRAVIS COUNTY, TEXAS
§
§
§ 250TH JUDICIAL DISTRICT
§

**PLAINTIFFS' PROPOSED FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

Now come the Plaintiffs, Edgewood ISD, et al. who file these
proposed findings of fact and conclusions of law.

DATED: August 13, 1990

Respectfully submitted:

ANTONIA HERNANDEZ
JOSE GARZA
NORMA V. CANTU
JUDITH A SANDERS-CASTRO
ALBERT H. KAUFFMAN
GUADALUPE T. LUNA
Mexican American Legal Defense
and Educational Fund
140 E. Houston St., Ste. 300
San Antonio, Texas 78205
(512) 224-5476

ROGER RICE
CAMILO PEREZ
PETER ROOS
META, INC.
50 Broadway
Somerville, MA 02144
(617) 623-2266

DAVID HALL
TEXAS RURAL LEGAL AID, INC.
259 S. Texas
Weslaco, TX 78596

Albert H. Kauffman
ALBERT H. KAUFFMAN
BAR NO. 11111500
ATTORNEYS FOR PLAINTIFFS,
EDGEWOOD ISD, ET AL.

Aug 13 4 16 PM '90

Aug 13 4 16 PM '90

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court heard 11 days of testimony, reviewed hundreds of exhibits and entertained lengthy arguments of counsel. The Court adopts its previous findings of fact and conclusions of law, filed August 27, 1987, except as specifically changed by this opinion. Based upon the record before it, the Court makes these findings of fact and conclusions of law:

I.

SENATE BILL 1 HAS NOT CHANGED THE BASIC STRUCTURE OF TEXAS SCHOOL FINANCE AND THAT STRUCTURE CONTINUES TO BE INEFFICIENT AND INEQUITABLE

A. Senate Bill 1 Does Not Change The System of School Finance in Texas; It Is A Band-Aid.

1. Senate Bill 1 has the same structure as its predecessor school finance statutes in Texas. Senate Bill 1 was preceded by Senate Bill 1019 (1989-90) which made some modifications to House Bill 72 (1984-1989) passed in a Special Session in 1984. Each of these three bills has a school finance system of three parts, and each of the three parts contains the same basic structures. (Hooker, Cardenas, Cortez, Moak)

2. Senate Bill 1, like Senate Bill 1019 and House Bill 72, contains a first tier foundation school program, a second tier guarantee tax base yield program (the enrichment equalization aid in House Bill 72) and a third tier of unequalized local enrichment. (Cardenas, Hooker, Cortez, Foster)

3. In Senate Bill 1, as in Senate Bill 1019 and House Bill 72, the foundation school program is insufficient to meet law and

accreditation standards in the State of Texas. (Hooker, Cardenas, Foster)

4. In Senate Bill 1, as in Senate Bill 1019 and House Bill 72, the second tier does not equalize funding for all school districts in the state. (Hooker, Cardenas, Cortez, Foster)

5. In Senate Bill 1, as in Senate Bill 1019 and House Bill 72, the third tier allows completely unequalized local enrichment depending only on the school district's local property tax base. (Moak, Cardenas, Cortez, Foster)

6. There was a \$12 billion state system in 1989-90. Senate Bill 1 has added approximately \$500 million in 1990-91, an addition of only 4%. Senate Bill 1 will add only \$1.2 billion in 1994-95. This is an addition of 10%. During the five years between 1989-90 and 1994-95 the inflation rate for school districts will be significantly higher than 10%; therefore Senate Bill 1 will not even keep up with inflation. (Cardenas, Hooker, Foster, Moak; PX)

7. The additional state funding in Senate Bill 1 is not as great in either total dollar terms or percentage terms as the additional state funding under House Bill 72 in 1984. Specifically in the first year of House Bill 72 the legislature increased state funding by 25% (\$1 billion) while the first year of Senate Bill 1 the Legislature would increase state funding by 10% (\$500 million) and in the 5th year of Senate Bill 1 the Legislature will increase funding by 20% (\$1.2 billion dollars). (Moak)